

NEW JERSEY MEADOWLANDS COMMISSION
AGENDA

DATE: October 13, 2006
TIME: 9:00 a.m.
PLACE: Lyndhurst, New Jersey
RE: MONTHLY MEETING

1. Pledge of Allegiance

2. Sunshine Law Statement

3. Roll Call

4. REVIEW OF MINUTES - August 8, 2006

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5. SPECIAL PRESENTATION

6. PUBLIC PARTICIPATION ON RESOLUTIONS

7. CONSENT AGENDA

Resolution No. 06-72 Consideration of a Resolution To Approve
One Bulk Variance Request For Front Yard
Loading at 969 Newark Turnpike, Block 286,
Lot 45C, in the Town of Kearny, New Jersey;
File No. 06-233, 969 Newark Pike/Loading
Doors - Site Improvement.

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Resolution No. 06-73 Consideration of a Resolution To Approve
With Modifications One Bulk Variance
Regarding Signage (Total Area of Signage)
and Deny One Bulk Variance Regarding
Signage (Maximum Area Of One Sign) for
the "Best Buys/ Ashley Furniture" Building
Located at 925 Paterson Plank Road, Block 158,
Lot 4, in the Town of Secaucus, New Jersey;
File No. 06-300, Mack/ Ashley Furniture - Sign
Variance.

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Resolution No. 06-74	Consideration of a Resolution To Approve One Use Variance Request For a 767-Space Parking Lot for the Outdoor Storage of New Vehicles on Block 453F, Lot 1, in the Township of North Bergen, New Jersey; File No. 06-139, K-Mart/NJ Storage LLC - Vehicle Storage Variance.	Pg. 12
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8. GREEN BUILDING

Resolution No. 06-75	Consideration of a Resolution To Approve a Notice of Adoption to Encourage Sustainable Development and Green Building Practices Proposed in Green Building/LEED Rulemaking and Authorize NJMC Staff To File the Notice with the Office of Administrative Law.	Pg. 15
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9. PUBLIC IMPROVEMENTS

Resolution No. 06-76	Consideration of a Resolution Authorizing Public Improvements in the Township of North Bergen.	Pg. 18
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10. INTERPRETATION

Resolution No. 06-77	Consideration of a Resolution Concerning A Request for Interpretation for Property Located at 600 Penhorn Avenue in the Town of Secaucus.	Pg. 20
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11. FLOOD CONTROL

Resolution No. 06-78	Consideration of a Resolution To Re-Appropriate Funds for the Preparation Of Final Design Documents and Environmental Permits.	Pg. 23
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12. **MEADOWLANDS ENVIRONMENTAL
RESEARCH INSTITUTE**

Resolution No. 06-79	Consideration of a Resolution Authorizing The Executive Director To Accept an EPA Grant Awarded Under the Local Scale Air Toxics Ambient Monitoring Initiative.	Pg. 25
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Resolution No. 06-80	Consideration of a Resolution Authorizing The Executive Director To Enter Into a Contract with NJIT Pertaining to the Near-Road Air Quality Study.	Pg. 27
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13. **MARSH DISCOVERY TRAIL**

Resolution No. 06-81	Consideration of a Resolution Authorizing The Executive Director To Enter Into a Contract for Renovations to the Marsh Discovery Trail.	Pg. 29
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14. **REDEVELOPMENT**

Resolution No. 06-82	Consideration of a Resolution Amending the Belleville Turnpike Redevelopment Plan.	Pg. 31
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15. **MUNICIPAL ASSISTANCE PROGRAM**

Resolution No. 06-83	Consideration of a Resolution Authorizing The Executive Director to Appropriate Funds To District Municipalities Under The MAP and Establish Formalized MAP Guidelines and Application.	Pg. 34
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16. **MEADOWLANDS CONSERVATION TRUST**

Resolution No. 06-84	Consideration of a Resolution Authorizing An Appropriation of Funds to the Meadowlands Conservation Trust.	Pg. 40
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17. **HVAC SYSTEMS MAINTENANCE AND SERVICE**

Resolution No. 06-85	Consideration of a Resolution Authorizing The Executive Director To Enter Into a Contract for HVAC Systems Maintenance And Service.	Pg 42
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18. **PURCHASING AND PROCUREMENT**

Resolution No. 06-86	Consideration of a Resolution To Adopt A Formal Purchasing and Procurement Policy Procedure for the NJMC.	Pg. 45
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19. **OYSTER HABITAT STUDY**

Resolution No. 06-87	Consideration of a Resolution Authorizing The Executive Director To Allocate Funds To Rutgers University for an Oyster Habitat Development Feasibility Study in The Hackensack River.	Pg. 72
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20. **SHARED SERVICES**

Resolution No. 06-88	Consideration of a Resolution Authorizing The Executive Director To Undertake a Shared Services Study with the District Municipalities and Allocates Funds for Seed Money for Shared Services Initiatives.	Pg. 75
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NEW JERSEY MEADOWLANDS COMMISSION
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21. UNIFORM CODE OF ETHICS

Resolution No. 06-89 Consideration of a Resolution Pg. 78
To Adopt a Uniform Code of Ethics.

22. LEGAL

Resolution No. 06-90 Consideration of a Resolution Concerning Pg. 98
Appropriation of Fund for Special Counsel
Associated with the EnCap Golf Redevelopment
Project.

Resolution No. 06-91 Consideration of a Resolution Concerning Pg. 100
Appropriation of Funds for Special Counsel
for the Purposes of Open Space Acquisition.

23. REPORTS

- A. Commissioners
- B. Executive Director
- C. Directors
- D. HMMC Executive Director

24. NEW BUSINESS

25. PUBLIC PARTICIPATION

26. CLOSED SESSION

- A. Adopt Resolution No. 06-92 to hold Closed Session. Pg. 102
- B. Adjournment to Closed Session. The Commission
Reserves the Right to Reconvene into Public Session, if
necessary, to take Action on Closed Session Items.

PLEASE CONTACT THE NJMC OFFICE (201-460-1700) PRIOR TO
MEETING IF SPECIAL REQUIREMENTS ARE NEEDED UNDER ADA

NEW JERSEY MEADOWLANDS COMMISSION

DATE: August 8, 2006
TIME: 10:00 a.m.
PLACE: Lyndhurst, NJ
RE: MONTHLY MEETING MINUTES

COMMISSIONERS PRESENT: Eleanore Nissley, Acting Chair
James Anzevino
Michael Gonnelli
Leonard R. Kaiser
Arleen Walther

STAFF PRESENT: Robert R. Ceberio, Executive Director
Irfan Bora, Director of Finance & Management/
Chief Financial Officer
Thomas Marturano, Director of Natural Resources
Sara Sundell, Assistant Director of Land Use Management
Francisco Artigas, Director of MERI
Christine A. Sanz, Chief Counsel
Christine Piatek, Deputy Attorney General
James Cary, Assistant Counsel to the Governor
Christine Ferrante, Executive Secretary

1. Pledge of Allegiance
2. Executive Director Ceberio read the Notice of Meeting required under the Sunshine Law.
3. Roll Call
4. REVIEW OF MINUTES

Minutes of the July 10, 2006 meeting was moved by Commissioner Kaiser, seconded by Commissioner Walther and unanimously carried.

5. SPECIAL PRESENTATION

- Status of the Meadowlands District Conservation Plan - Mr. Ceberio introduced Larry Niles of the NJDEP Fish and Game Department. Mr. Niles gave a presentation on the Conservation Plan.

- Presentation of the Meadowlands Eco-Tourism Guide - Mr. Ceberio acknowledged the Audubon Society, The Hackensack Riverkeeper and the Meadowlands Regional Chamber of Commerce for their work in putting together the New Jersey Birding and Wildlife Trails - Meadowlands and More Guide. Acting Chairman Nissley introduced Tom Gilmore from the Audubon Society who thanked the Commission for their support. Jim Kirkos of the Chamber of Commerce also thanked the Commission. Lillian Armstrong gave a description of the Guide.

6. PUBLIC PARTICIPATION ON RESOLUTIONS

- Bill Shore, Nature Network spoke on public transportation to natural areas.
- Margaret Schak, representing the Rutherford Taxpayers Association spoke on Resolution 06-70 and 06-68.

Resolution 06-68 concerning a request for interpretation for property located at 600 Penhorn Ave in Secaucus has been tabled.

7. CONSENT AGENDA

Resolution No. 06-65 - Resolution issuing a decision on the variance application submitted as part of File No. 05-682 Mack/Interstate Outdoor Billboard - Block 98, Lot 1 in the Town of Secaucus

Motion to adopt the resolution was made by Commissioner Kaiser, seconded by Commissioner Nissley and unanimously carried.

8. REORGANIZATION

Resolution No. 06-66 - Resolution to adopt the annual schedule of meetings.

Motion to adopt the resolution was made unanimously carried.

Motion to appoint Commissioner Nissley as Vice Chairman was made by Commissioner Kaiser, seconded by Commissioner Gonnelli and unanimously carried

Motion to appoint Commissioner Anzevino as Treasurer was made by Commissioner Gonnelli, seconded by Commission Kaiser and unanimously carried.

Designation of committees was adopted.

9. LEGAL

Resolution No. 06-67 - Resolution authorizing the payment of legal bills relevant to wetland and open space acquisitions.

Ms. Sanz explained that in 2003 the Commission authorized the retention of special counsel for open space acquisition. As a result of the success of the open space acquisition and preservation program we need additional funds for payment of legal services. Staff is requesting the authorization to pay the firm of Nowell Amoroso Klein Bierman for legal services performed in an amount not to exceed \$25,000.

Motion to adopt the resolution was made by Commissioner Kaiser, seconded by Commissioner Anzevino and unanimously carried.

10. INTERPRETATION

Resolution 06-68 - Tabled

11. CONSERVATION

Resolution 06-69 - Resolution regarding the deployment of NJDEP Conservation Officers in the Meadowlands

Ms. Sanz explained that as part of the implementation of a comprehensive wildlife management and conservation plan staff is requesting approval for the Executive Director to enter into an MOA with NJDEP for the deployment of two conservation officers to the Meadowlands District. The annual sum of \$200,000 is recommended.

Motion to adopt the resolution was made by Commissioner Gonnelli, seconded by Commissioner Anzevino and unanimously carried.

12. FLOODING

Resolution 06-70 - Resolution authorizing funding for professional design services related to the restoration of the Rutherford/East Rutherford Drainage Ditch System.

Motion to adopt the resolution was made by Commissioner Anzevino, seconded by Commissioner Kaiser and unanimously carried.

13. REPORTS

Commissioner Kaiser makes an address regarding his concerns with the Porete Avenue Redevelopment Project in North Arlington. Specifically, Commissioner Kaiser requests that the Borough of North Arlington indicate its feelings about the EnCap redevelopment project in its municipality and that he will not support moving forward without the affirmative support of the governing body of North Arlington. Commissioner Kaiser requests that the Borough adopt a resolution passed by the majority of the board so that the NJMC is not at risk should the Borough decide it does not support the project.

14. PUBLIC PARTICIPATION

- Bill Sheehan, Riverkeeper
- Margaret Schak, representing the Rutherford Taxpayers Association
- Eric Stiles

15. CLOSED SESSION

The following issues were taken into consideration:

- Legal
- EnCap

Motion to enter into closed session was made by Commissioner Anzevino, seconded by Commissioner Gonnelli and unanimously carried.

16. PUBLIC SESSION

Commissioner Kaiser makes a motion that the NJMC not close on the EnCap transactions until such time as the Borough of North Arlington has adopted a resolution indicating its support for the Porete Avenue Redevelopment Project in North Arlington.

No second.

Meeting adjourned.

ROBERT R. CEBERIO, SECRETARY

**RESOLUTION ISSUING A DECISION ON THE VARIANCE APPLICATION
SUBMITTED AS PART OF
FILE NO. 06-233 969 NEWARK PIKE/LOADING DOORS - SITE
IMPROVEMENT
BLOCK 286, LOT 45C, IN THE TOWN OF KEARNY**

WHEREAS, an application for one (1) bulk variance was filed with the New Jersey Meadowlands Commission ("NJMC") by Mr. Glen Nicholson on behalf of 969 Newark Pike, for the premises identified as 969 Newark Turnpike, Block 286, Lot 45C, in the Town of Kearny; and

WHEREAS, the variance is sought in connection with the applicant's proposal to provide two (2) new loading areas in the front yard facing the ramp between the Belleville and Newark Turnpikes in connection with an existing warehouse and office facility on the subject premises and located in the NJMC's Intermodal A zone; and

WHEREAS, the applicant requested relief from N.J.A.C. 19:4-8.3(b)1, which does not permit loading areas in any front yard. The applicant is proposing to provide two (2) new loading areas in the front yard facing the ramp between the Belleville and Newark Turnpikes on the subject premises; and

WHEREAS, notice of the requested variance relief was given to the public and all interested parties as required by law and was published in The Jersey Journal; and

WHEREAS, a public hearing was held in the Office of the NJMC on July 18, 2006, before Sharon Mascaró, Chief Engineer and Sharon Escoriza, Staff Engineer; and

WHEREAS, a comprehensive report dated September 18, 2006, has been prepared indicating the recommendations of the Director of Land Use Management and Chief of Regulatory Affairs and the Executive Director in this matter; and

WHEREAS, the report recommends approval of the bulk variance request to provide two (2) new loading areas in the front yard facing the ramp between the Belleville and Newark Turnpikes on the subject premises; and

WHEREAS, the members of the NJMC have reviewed the full record including the transcripts of the public hearings, recommendations on the application by the Director of Land Use Management and Chief of Regulatory Affairs and by the Executive Director, the submissions of the applicant and all written public comments; and

WHEREAS, the members of the NJMC concur with the recommendations of the Director of Land Use Management and Chief of Regulatory Affairs and the Executive Director; and

WHEREAS, the NJMC hereby determines that the requested variance to provide two (2) new loading areas in the front yard facing the ramp between the Belleville and Newark Turnpikes on the subject premises conforms with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e).

NOW, THEREFORE, BE IT RESOLVED, by the New Jersey Meadowlands Commission, that 969 Newark Pike/Loading Doors - Site Improvement variance for one bulk variance to provide two (2) new loading areas in the front yard facing the Belleville and Newark Turnpikes on the subject premises is hereby **APPROVED** for the reasons set forth in the September 18, 2006, recommendation.

The foregoing was adopted on Commission vote.

Susan Bass Levin
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of October 13, 2006.

Robert R. Ceberio
Secretary

Resolution No. 06-72

Memorandum

New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Ileana Kafrouni Date: October 13, 2006

Subject: Variance Recommendation: 969 Newark Pike/Loading Doors – Site Improvement (File 06-233)

Application for one (1) bulk variance was filed with the New Jersey Meadowlands Commission by Glen Nicholson on behalf of 969 Newark Pike for the premises located at 969 Newark Turnpike, and identified as Block 286, Lot 45C, in the Town of Kearny, New Jersey. Said premises are located in the Commission's Intermodal A zone. The variance is sought in connection with the applicant's proposal to construct two (2) new loading areas in the front yard of the subject premises.

The applicant has requested variance relief from N.J.A.C. 19:4-8.3(b)1, which does not permit loading in any front yard. The applicant is proposing to provide two (2) new loading areas in the front yard facing the ramp between the Belleville and Newark Turnpikes. A public hearing was held in the Office of the NJMC on July 18, 2006 on this matter.

In a comprehensive report dated September 18, 2006, the Executive Director and I recommended approval of the bulk variance request to install two (2) new loading areas on the subject premises.

At this time, the Commission is required to issue a decision on the variance application described above. A resolution requesting the same is attached for your consideration.

**RESOLUTION ISSUING A DECISION ON THE VARIANCE APPLICATION
SUBMITTED AS PART OF
FILE NO. 06-300 MACK/ASHLEY FURNITURE - SIGN VARIANCE
BLOCK 158, LOT 4, IN THE TOWN OF SECAUCUS**

WHEREAS, an application for two (2) bulk variances was filed with the New Jersey Meadowlands Commission ("NJMC") by Eugene Chrinian of Factory Direct of Secaucus, LLC for the premises identified as 925 Paterson Plank Road, Block 158, Lot 4, in the Town of Secaucus; and

WHEREAS, the variances are sought in connection with the applicant's proposal to install signage on the subject premises and located in the NJMC's Regional Commercial zone; and

WHEREAS, the applicant requested relief from N.J.A.C. 19:4-8.14(h), Table 8-5, which permits a maximum sign area of any single sign up to 300 square feet. The applicant is proposing a double-sided pylon sign measuring 333 square feet; and

WHEREAS, the applicant also requested relief from N.J.A.C. 19:4-8.14(h)4, which states that the total permitted sign area at the premises shall not exceed five percent of the main façade area, calculated as 830 square feet. The applicant is proposing a total sign area of 1540.4 square feet at the premises; and

WHEREAS, notice of the requested variance relief was given to the public and all interested parties as required by law and was published in Secaucus Home News and The Jersey Journal; and

WHEREAS, a public hearing was held in the Office of the NJMC on July 11, 2006, before Sharon Mascaró, Chief Engineer and Sharon Escoriza, Staff Engineer; and

WHEREAS, a comprehensive report dated September 19, 2006 has been prepared indicating the recommendations of the Director of Land Use Management and the Executive Director in this matter; and

WHEREAS, the report recommends denial of the bulk variance request for the sign exceeding the maximum 300 square feet in area for any single sign; and

WHEREAS, the report recommends a modified approval of the bulk variance request to permit a total sign area greater than five percent of the main building façade; and

WHEREAS, the members of the NJMC have reviewed the full record including the transcripts of the public hearings, recommendations on the application by the Director of Land Use Management and Chief of Regulatory Affairs and by the Executive Director, the submissions of the applicant and all written public comments; and

WHEREAS, the members of the NJMC concur with the recommendations of the Director of Land Use Management and Chief of Regulatory Affairs and the Executive Director; and

WHEREAS, the NJMC hereby determines that the requested variance to permit a maximum sign area of one single sign to be 333 square feet, which is 33 square feet greater than the maximum allowable single-sign area of 300 square feet, does not conform with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e); and

WHEREAS, the NJMC hereby determines that the requested variance to permit a total sign area of 677.4 square feet, which is 9.08% of the main building façade, conforms with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e).

NOW, THEREFORE, BE IT RESOLVED, by the New Jersey Meadowlands Commission, that the Mack/Ashley Furniture Sign Variance application for one bulk variance to permit a maximum sign area of any single sign greater than 300 square feet is hereby **DENIED** for the reasons set forth in the September 19, 2006 recommendation.

BE IT FURTHER RESOLVED, by the New Jersey Meadowlands Commission, that the Mack/Ashley Furniture Sign Variance application for one bulk variance to permit a maximum sign area greater than five percent of the main façade area at the subject property hereby **APPROVED with the following MODIFICATIONS** for the reasons set forth in the September 19, 2006 recommendation:

1. The total permitted sign area may be exceeded by 677.4 square feet, not 710.4 square feet, as the previous variance requesting a maximum signage area of 333 square feet is denied. The difference of 33 square feet, calculated as the difference between the proposed sign area of 333 square feet and the permitted maximum sign area of 300 square feet, is subtracted from the requested total signage area. The resulting total approved signage area on the site is modified to 1507.4 square feet.

The foregoing was adopted on Commission vote.

Susan Bass Levin
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of October 13, 2006.

Robert R. Ceberio
Secretary

Resolution No. 06-73

Memorandum

New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert Ceberio, Executive Director

From: Ileana Kafrouni Date: October 13, 2006

Subject: Variance Recommendation: Mack/Ashley Furniture – Sign Variance (File 06-300)

Applications for two (2) bulk variances were filed with the New Jersey Meadowlands Commission by Eugene Chrinian on behalf of on behalf of Factory Direct of Secaucus, for the premises located at 925 Paterson Plank Road, and identified as Block 158, Lot 4, in the Town of Secaucus, New Jersey. Said premises are located in the Commission's Regional Commercial zone. The variances are sought in connection with the applicant's proposal to install signage on the subject premises.

The applicant has requested variance relief from N.J.A.C. 19:4-8.14(h) Table 8-5, which permits a maximum sign area of any single sign up to 300 square feet. One of the proposed signs, a double-sided pylon sign, measures 333 square feet. The applicant has also requested relief from N.J.A.C. 19:4-8.14(h)4, which states that the total permitted sign area at the premises shall not exceed five percent of the main façade area, calculated as 830 square feet. The total sign area proposed at the premises is 1540.4 square feet. A public hearing was held in the Office of the NJMC on July 11, 2006 on this matter.

In a comprehensive report dated September 19, 2006, the Executive Director and I recommended a modified approval of one bulk variance request for an increase in total sign area over the allotted five percent of the building façade and denial of one bulk variance request to install a double-sided pylon sign over 300 square feet on the subject premises.

At this time, the Commission is required to issue a decision on the two (2) variance applications described above. A resolution requesting the same is attached for your consideration.

**RESOLUTION ISSUING A DECISION ON THE VARIANCE APPLICATION
SUBMITTED AS PART OF
FILE NO. 06-139 K-MART/NJ STORAGE LLC - VEHICLE STORAGE
VARIANCE
BLOCK 453F, LOT 1, IN THE TOWN OF NORTH BERGEN**

WHEREAS, an application for one (1) use variance was filed with the New Jersey Meadowlands Commission ("NJMC") by Mr. Saul Jericho on behalf of NJ Car Storage, LLC, for the premises identified as Block 453F, Lot 1, in the Town of North Bergen; and

WHEREAS, the variance is sought in connection with the applicant's proposal to utilize the subject premises, zoned Light Industrial A, for the storage of vehicles, which is considered an outdoor storage use; and

WHEREAS, the applicant requested relief from N.J.A.C. 19:4-5.73, in which a vehicle storage lot is not a permitted use in the Light Industrial A zone. The applicant is proposing to use the subject premises as a 767-space parking lot for the outdoor storage of new vehicles. Therefore, a use variance is required; and

WHEREAS, notice of the requested variance relief was given to the public and all interested parties as required by law and was published in The Jersey Journal; and

WHEREAS, a public hearing was held in the Office of the NJMC on August 1, 2006, before Sharon Mascaró, Chief Engineer and Mia Petrou, Senior Staff Planner; and

WHEREAS, a comprehensive report dated September 14, 2006, has been prepared indicating the recommendations of the Director of Land Use Management and Chief of Regulatory Affairs and the Executive Director in this matter; and

WHEREAS, the report recommends approval of the use variance request to utilize the subject premises for the storage of vehicles; and

WHEREAS, the members of the NJMC have reviewed the full record including the transcripts of the public hearings, recommendations on the application by the Director of Land Use Management and Chief of Regulatory Affairs and by the Executive Director, the submissions of the applicant and all written public comments; and

WHEREAS, the members of the NJMC concur with the recommendations of the Director of Land Use Management and Chief of Regulatory Affairs and the Executive Director; and

WHEREAS, the NJMC hereby determines that the requested variance to utilize the subject premises for the outdoor storage of vehicles conforms with the standards for approving applications for variances as set forth in N.J.A.C. 19:4-4.14(e).

NOW, THEREFORE, BE IT RESOLVED, by the New Jersey Meadowlands Commission, that K-Mart/NJ Storage, LLC - Vehicle Storage Variance for the outdoor storage of new vehicles in a 767-space parking lot is hereby **APPROVED** for the reasons set forth in the September 14, 2006, recommendation.

The foregoing was adopted on Commission vote.

Susan Bass Levin
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of October 13, 2006.

Robert R. Ceberio
Secretary

Resolution No. 06-74

Memorandum

New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Ileana Kafrouni Date: October 13, 2006

Subject: Variance Recommendation: KMart Vehicle Storage – Site Improvement (File 06-139)

Application for one (1) use variance was filed with the New Jersey Meadowlands Commission by Saul Jericho on behalf of N.J. Car Storage, LLC, for the premises identified as Block 453F, Lot 1, in the Township of North Bergen, New Jersey. Said premises are located in the Commission's Light Industrial A zone. The variance is sought in connection with the applicant's proposal to utilize the subject premises for the storage of vehicles, which is considered an outdoor storage use.

The applicant has requested variance relief from N.J.A.C. 19:4-5.73, in which a vehicle storage lot is not a permitted use in the Light Industrial A zone. The applicant is proposing to use the subject premises as a 767-space parking lot for the outdoor storage of new vehicles. Therefore, a use variance is required. A public hearing was held in the Office of the NJMC on August 1, 2006 on this matter.

In a comprehensive report dated September 14, 2006, the Executive Director and I recommended approval of the use variance request to permit outdoor storage of new vehicles.

At this time, the Commission is required to issue a decision on the variance application described above. A resolution requesting the same is attached for your consideration.

**RESOLUTION ADOPTING NEW RULES FOR ENCOURAGING
SUSTAINABLE DEVELOPMENT THROUGH THE
IMPLEMENTATION OF GREEN BUILDING RULES.**

WHEREAS, the NJMC is authorized by N.J.S.A. 13:17 *et seq.* and N.J.A.C. 19:3-1 *et seq.*, to adopt codes and standards regarding the zoning and rezoning of lands within the Meadowlands District; and

WHEREAS, a Notice of Proposal was filed with the Office of Administrative Law for publication in the May 1, 2006 issue of the New Jersey Register proposing new Green Building rules; and

WHEREAS, a public hearings was held on June 6, 2006 at the Office of the Commission to receive comment on the rulemaking proposal. One comment was presented but did not impact the proposed rule changes; and

WHEREAS, the matter was forwarded to the Hackensack Meadowlands Municipal Committee (HMMC) on July 3, 2006 for its consideration; and

WHEREAS, no comments were provided by the HMMC during its 45-day comment period, which ended on August 17, 2006; and

WHEREAS, the NJMC staff is proposing one non-substantive agency-initiated change upon adoption to correct the grammar of the adopted rule; and

WHEREAS, based on the record in this matter, the staff recommends that the NJMC adopt the new Green Building rules and authorize the NJMC staff to file a Notice of Adoption with the Office of Administrative Law. The new rules will become effective upon publication in the Register.

NOW, THEREFORE, BE IT RESOLVED, that the New Jersey Meadowlands Commission hereby adopts the new Green Building rules as set forth in the Notice of Adoption, and authorizes the staff to submit the Notice of Adoption to the Office of Administrative Law for publication in the New Jersey Register.

The foregoing was adopted by Commission vote.

Susan Bass Levin
Chairman

I certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of October 13, 2006.

Robert R. Ceberio
Secretary

Resolution No. 06-75

Memorandum

New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Ileana Kafrouni Date: October 13, 2006

Subject: SP-515 Green Building/LEED Rulemaking

On November 21, 2005, the NJMC authorized its staff to file a notice of proposal and hold a public hearing regarding proposed changes to NJMC regulations governing green building construction. A Notice of Proposal was filed with the Office of Administrative Law for publication in the New Jersey Register (NJR). The Notice appeared in the May 1, 2006 issue of the NJR. The public comment period ended on June 30, 2006.

A public hearing was held on June 6, 2006 at the Office of the Commission to receive comment on the proposal. One comment was made at the public hearing but did not impact the proposed rules. The commenter requested information pertaining to the derivation of density bonuses and waivers.

On July 3, 2006, the matter was forwarded to the HMMC for its consideration. No comments were provided by the HMMC during its 45-day comment period, which ended on August 17, 2006.

The NJMC staff has proposed a non-substantive agency-initiated change upon adoption to make a grammatical correction in the adopted rules.

Based on the record in this matter, the staff is requesting that the Commission adopt the new Green Building rules and authorize the staff to file a Notice of Adoption with the Office of Administrative Law. A resolution requesting same is attached for your consideration.

**RESOLUTION AUTHORIZING THE IMPROVEMENT OF
83rd Street, TOWNSHIP OF NORTH BERGEN
BERGEN COUNTY, NEW JERSEY
NJMC FILE # SP-545**

WHEREAS, pursuant to N.J.S.A. 13:17-12(b) the governing body of a constituent municipality, before taking action necessitating the expenditure of any public funds on a public project must forward the matter to the Commission for its review and approval; and

WHEREAS, the Township of North Bergen is proposing to improve the existing storm water system in areas surrounding 83rd Street; and

WHEREAS, the improvements will include additional impervious area in the amount of 9,282 square feet, installation of 30" and 36" RCP pipe sections with three (3) 36" DIP sections, as well as new inlets, a pump station, force main and outfall structure with a rip-rap apron, with an estimated construction cost of \$1.8 million; and

WHEREAS, the Staff has reviewed the plans submitted by Boswell McClave Engineering on behalf of the Township; and

WHEREAS, the Staff has determined that the design standards and engineering aspects of the proposal are acceptable.

NOW, THEREFORE, BE IT RESOLVED, by the New Jersey Meadowlands Commission, that, subject to the issuance of all necessary approvals from the Division of Land Use Management, and the submission of as-built plans at the completion of the project, the proposed public improvement is approved.

The foregoing was adopted by Commission vote.

Susan Bass Levin
Chairman

I certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of October 13, 2006.

Robert R. Ceberio
Secretary

Resolution No. 06-76

Memorandum

New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Ileana Kafrouni Date: October 13, 2006

Subject: SP-545 North Bergen/83rd St. Storm Sewer and Pump Station

Pursuant to N.J.S.A. 13:17-12(b), the governing body of a constituent municipality, before taking action necessitating the expenditure of any public funds on a public project, must forward the matter to the Commission for its review and approval.

The Township of North Bergen has applied to the NJMC to improve existing stormwater systems by replacing undersized pipe sections, and constructing a pump station and force main in the vicinity of 83rd Street and West Side Avenue. The purpose of the proposed construction is to alleviate flooding conditions within the Township of North Bergen. The project area consists of approximately 2 acres of land which can be accessed from 83rd Street. The net increase of impervious area onsite will be 9,282 square feet. Construction will consist of improvements to the existing storm water system including installation of 30" and 36" RCP pipe sections with three (3) 36" DIP sections, as well as new inlets, a pump station, force main and outfall structure with a rip-rap apron. Dredging will also take place along the easternmost 350 feet of the drainage ditch. The total estimated cost for the construction is \$1.8 million.

The plans submitted on behalf of the Township of North Bergen were prepared by Steven Boswell, P.E., Boswell McClave Engineering. The NJMC Staff has reviewed the plans and finds them to be acceptable.

At this time, the Staff is requesting that the Commission approve the proposed public improvement project, subject to the issuance of all necessary permits and the submission of "as-built" plans at the completion of the project. A resolution requesting the same is attached for your consideration.

**RESOLUTION ON A USE INTERPRETATION
FOR 600 PENHORN AVENUE, BLOCK 46, LOT 3.01,
IN SECAUCUS, NEW JERSEY**

WHEREAS, N.J.A.C. 19:4-4.12 permits the NJMC to issue interpretations regarding the NJMC District Zoning Regulations; and

WHEREAS, on June 27, 2006, George D. Cascino, P.E., P.P. submitted a written request for a use interpretation for the property located at 600 Penhorn Avenue, Block 46, Lot 3.01, in Secaucus, New Jersey; and

WHEREAS, the subject of the request was an interpretation of the permitted uses in the Light Industrial A zone; specifically, that the proposed use of the property could be considered as a warehouse and distribution facility pursuant to N.J.A.C. 19:4-5.73(a)22; and

WHEREAS, NJMC staff evaluated the request through meetings with the requester, inspections of the premises, and a review of the proposed site plan; and

WHEREAS, a comprehensive report dated August 2, 2006 has been prepared indicating the recommendations of the Director of Land Use Management and the Executive Director based on the record of the matter;

WHEREAS, NJMC staff recommends that the Board of Commissioners interpret the proposed use not as a warehouse and distribution use, but rather a contractor's facility/yard; and

WHEREAS, NJMC staff further recommends classifying the proposed use as a contractor's facility/yard; and

WHEREAS, a contractor's facility/yard as a principal use is not a permitted use in the Light Industrial A zone in which the property is located; and

WHEREAS, the appropriate procedure within which to consider the proposed use is a use variance; and

WHEREAS, a copy of the August 2, 2006 report and the proposed memo and resolution was provided to George Cascino on August 4, 2006; and

WHEREAS, a September 13, 2006 letter responding the August 2, 2006 report was submitted to the Executive Director by George Cascino and which stated that "certain inaccuracies, misstatements of fact, missing and/or misleading information" had been presented to the Commissions; and

WHEREAS, a memorandum from the Chief Engineer dated October 6, 2006 responding to George Cascino's correspondence was submitted to the Commissioners along with the original September 13, 2006 letter refuting the substantive issues in the September 13, 2006 letter; and

WHEREAS, the recommendation of the NJMC staff has not been materially altered from the August 2, 2006 interpretation document; and

WHEREAS, the members of the NJMC have reviewed the full record, recommendations on the interpretation by the Director of Land Use Management and by the Executive Director, and the submissions of the applicant; and

WHEREAS, the members of the NJMC concur with the recommendations of the Director of Land Use Management and the Executive Director.

NOW THEREFORE BE IT RESOLVED, by the New Jersey Meadowlands Commission, that the proposed use at the premises is a contractor's facility/yard for the reasons set forth in the recommendation report; and

BE IT FURTHER RESOLVED, that the proposed use shall not be considered a warehouse/distribution use, but shall be classified as a contractor's facility/yard, for the reasons set forth in the recommendation report; and

BE IT FURTHER RESOLVED, that a use variance shall be required to permit a contractor's facility/yard as a principal use at the subject location.

The foregoing Resolution was adopted by Commission vote.

Susan Bass Levin
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of October 13, 2006.

Robert R. Ceberio
Secretary

Resolution No. 06-77

Memorandum

New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Ileana Kafrouni Date: October 13, 2006

Subject: Use Interpretation for 600 Penhorn Avenue, Block 46, Lot 3.01, Secaucus

George D. Cascino, P.E., P.P., submitted a written request dated June 27, 2006, for a use interpretation for the property located at 600 Penhorn Avenue, Block 46, Lot 3.01, in Secaucus, New Jersey, in which the property owner, Benmark Construction, has requested a formal interpretation of the permitted uses in the Light Industrial A zone; specifically, that the proposed use of the property can be considered a permitted use as a warehouse and distribution facility pursuant to N.J.A.C. 19:4-5.73(a)22. As stated in the request for interpretation, Benmark proposes to construct a storage building with a gravel floor to house equipment and materials associated with a construction business, and therefore, should be considered a permitted use.

NJMC staff evaluated the request through meetings with the requester, inspections of the property, and review of the proposed site plan. Given the physical characteristics of the proposed building, the proposed type of equipment and materials stored, the lack of site improvements, and the nature of Benmark's existing operations, the NJMC staff recommends that the Commission interpret the proposed use as a contractor's facility, as defined in N.J.A.C. 19:4-2.2. A contractor's facility is not a permitted use in the Light Industrial A zone, and would therefore require a use variance application.

Based on the record of the matter, NJMC staff prepared a recommendation report regarding the interpretation of the proposed use of the request. The recommendation report was provided to George Cascino on August 4, 2006. Mr. Cascino responded with a letter to the Executive Director dated September 13, 2006. The Chief Engineer provided a response to Mr. Cascino's letter by way of a memo to the NJMC Commissioners and the Executive Director on October 6, 2006, a copy of which was provided to Mr. Cascino and Benmark Construction. The recommendation regarding the use interpretation did not change as a result of the September 13, 2006 correspondence, with the exception of a correction to a mistake in the name of a municipality on page 2, section C2.

At this time, it is requested that the Commissioners vote to interpret whether the proposed use is classified as a warehouse/distribution use or a contractor's facility/yard use.

**RESOLUTION RE-APPROPRIATING FUNDING FOR THE
FINAL DESIGN AND PERMITTING OF TIDE GATE REPAIRS
IN CARLSTADT**

WHEREAS, in developing the Hackensack Meadowlands Floodplain Management Plan, the NJMC has identified several tide gates in Carlstadt as in need of immediate repair; and

WHEREAS, specifically, the Peach Island Creek Tide Gates, Yellow Freight Tide Gates, and the Broad Street & 16th Street Tide Gate are in poor condition; and

WHEREAS, \$150,000 in funds previously appropriated by Resolution No. 02-77 for the replacement of tide gates in the Borough of Carlstadt are currently unused; and

WHEREAS, the NJMC staff requests that this amount be re-appropriated for the preparation of final design documents and environmental permits for the above tide gates; and

WHEREAS, The NJMC staff will prepare the preliminary designs and hydrologic and hydraulic reports necessary for the final design of the tide gates; and

NOW, THEREFORE BE IT RESOLVED, that the New Jersey Meadowlands Commission authorizes funding to be re-allocated from the replacement of tide gates in Carlstadt and appropriates \$150,000 to provide for the preparation of final design documents and environmental permits for the repair of tide gates within Carlstadt.

The foregoing was adopted by Commission vote.

Susan Bass Levin
Chairman

I certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of October 13, 2006.

Robert R. Ceberio
Secretary

Resolution No. 06-78

Memorandum

New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Ileana Kafrouni Date: October 13, 2006

Subject: Re-appropriation of Funding for the Design and Permitting of Tide Gate Repairs

In developing the 2005 Hackensack Meadowlands Floodplain Management Plan, the NJMC identified several tide gates in Carlstadt as in need of immediate repair. Specifically, the Peach Island Creek Tide Gates, Yellow Freight Tide Gates, and the Broad Street & 16th Street Tide Gate are in poor condition.

Resolution No. 02-77 appropriated \$150,000 for the replacement of tide gates in the Borough of Carlstadt. As these funds are currently unused, the NJMC staff requests that this amount be re-appropriated for the preparation of final design documents and environmental permits for the above tide gates. The NJMC staff will prepare the preliminary designs and hydrologic and hydraulic reports.

At this time, staff is requesting that the Commission reallocate funds previously authorized for the replacement of tide gates in Carlstadt and appropriate \$150,000 to provide for the preparation of final design documents and environmental permits for the repair of tide gates within Carlstadt as identified in the Hackensack Meadowlands Floodplain Management Plan.

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO ACCEPT
AN EPA GRANT TO CONDUCT A NEAR-ROAD AIR QUALITY STUDY**

WHEREAS, through a competitive process, NJMC has been awarded an EPA Grant for a total project cost of \$817,928 to conduct a "Near-Road Air Quality" study; and

WHEREAS, the NJMC is currently funding a three (3) year Air Quality study to benchmark the baseline air quality conditions in the District; and

WHEREAS, this new study will compliment the current Air Quality Study in the District and increase the total investment in Air Quality Studies by the Commission to over \$1.5 million; and

WHEREAS, these studies will provide the basic information for policy development and managing the greenhouse gas emissions and air pollutants in the District; and

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is hereby authorized to accept this grant from the EPA for completion of the study by August 2008.

The foregoing was adopted by Commission vote.

Susan Bass Levin
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting on October 13, 2006.

Robert R. Ceberio
Secretary

Resolution No. 06-79

Memorandum

New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Dr. Francisco Artigas Date: October 13, 2006

Subject: Acceptance of an EPA Air Quality Grant

In September 2006, NJMC was awarded an EPA Grant through a competitive process for a total project cost of \$817,928 to conduct a "Near-Road Air Quality" study. Currently, the NJMC is funding a three (3) year \$700,000 Air Quality study to benchmark the baseline air quality conditions in the District. The new "Near-Road Air Quality" study will compliment the ongoing study and increase the total investment by the Commission to over \$1.5 million. These Air Quality studies will help to characterize the degree and extent of the greenhouse gas emissions and air pollutants in the District, and assist in better managing these risks to the local communities.

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER
INTO AN AGREEMENT WITH NEW JERSEY INSTITUTE OF
TECHNOLOGY TO PROVIDE STATISTICAL DATA ANALYSIS SERVICES**

WHEREAS, the NJMC was awarded an EPA Grant to collect air quality data near roads; and

WHEREAS, this near-road Air Quality Study will commence in Fall of 2006, and a substantial amount of data will be collected during the 24-months of the study; and

WHEREAS, the data collected by this study will need to be analyzed for its significance and temporal / spatial trend by professional statisticians; and

WHEREAS, in the past the New Jersey Institute of Technology (NJIT) Mathematical Sciences Department, Statistical Consulting Lab has provided the statistical analysis of the NJMC water quality data; and

WHEREAS, this project will be funded with a grant from USEPA (Agreement No. XA 97268501-0); and

NOW, THEREFORE, BE IT RESOLVED, that the Executive Director is hereby authorized to enter into an agreement with New Jersey Institute of Technology to "Provide Statistical Data Analysis Services" at a cost not to exceed \$ 20,000.

The foregoing was adopted by Commission vote.

Susan Bass Levin
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting on October 13, 2006.

Robert R. Ceberio
Secretary

Memorandum

New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Dr. Francisco Artigas Date: October 13, 2006

Subject: NJIT Statistical Data Analysis Services

MERI will be starting a two-year Near-Road Air Quality Study in the fall of 2006. The objectives are to measure airborne particulate matters and their associated pollutant levels (PAHs and metals) at different distances from the NJ Turnpike. The data collected from this study will need to be analyzed statistically to determine its significance as well as its temporal and spatial trends. This data analysis will be performed by the statisticians from NJIT and will be funded by an EPA grant (Agreement No. XA 97268501-0). The NJIT Mathematical Sciences Department, Statistical Consulting Lab will provide the needed services at a cost not to exceed \$20,000.

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR
TO ENTER INTO A CONTRACT FOR
MARSH DISCOVERY TRAIL IMPROVEMENTS**

WHEREAS, the New Jersey Meadowlands Commission installed the Marsh Discovery Trail in 1990 and has since performed major repairs due to flooding; and

WHEREAS, the NJMC seeks a long-term solution to the problems which have forced the frequent closing of the trail to the public; and

WHEREAS, plans and specifications for the renovation of the Trail were prepared by the NJMC staff and publicly bid, with three (3) bids received on September 7, 2006; and

WHEREAS, Applied Landscape Technologies of Montville, NJ, was the lowest responsible bidder, with a bid in the amount of \$ 566,300.00; and

WHEREAS, staff review of the bid indicates that the bid is reasonable and proper, as outlined in the attached memorandum.

NOW, THEREFORE, BE IT RESOLVED by the New Jersey Meadowlands Commission that the Executive Director is hereby authorized to enter into a contract with Applied Landscape Technologies for landscape construction at a cost of \$ 566,300.00.

The foregoing resolution was adopted by Commission vote.

Susan Bass Levin
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of October 13, 2006.

Robert R. Ceberio
Secretary

Resolution No. 06-81

Memorandum

New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Thomas Marturano

Date: October 13, 2006

Subject: Marsh Discovery Trail Renovation: Contract LA06-01

On September 7, 2006, bids were received and opened for the above-referenced contract. This project comprises the removal and replacement of a substantial segment of the existing Marsh Discovery Trail, which was originally built in 1990. Approximately 1400 linear feet of the 2400-foot modular plastic walkway will be replaced with a wooden boardwalk supported by helical piles. This approach will raise the boardwalk surface above the marsh and minimize the need to close the boardwalk due to high water, a frequent problem with the current walkway. The fixed boardwalk will also be less subject to the movement caused by tidal fluctuations which has historically been the source of damage to the existing walkway and has necessitated frequent maintenance and repairs.

All existing blinds will be retained and aluminum railings will be re-used at water crossings. The existing covered classroom will be replaced and a second classroom added to accommodate increased use by school groups. In addition, a new 35-foot pier, located near the new classroom, will provide improved access to the impoundment for dip-netting.

During the bid period, a total of 8 prospective bidders purchased the contract documents. Three bids were received; the lowest bidder was Applied Landscape Technologies of Montville, NJ, with a bid of \$566,300.00. The other bidders were J.A. Alexander of Bloomfield, NJ, with a bid of \$979,100.00, and Bird Construction of Bayville, NJ, with a bid of \$1,245,477.00.

Review of the bids indicates that they were complete and in order. Therefore, we are submitting for your consideration and approval a resolution authorizing the Executive Director to enter into a contract with Applied Landscape Technologies for landscape construction at a cost of \$566,300.

**RESOLUTION TO ADOPT THE AMENDED
BELLEVILLE TURNPIKE REDEVELOPMENT PLAN**

WHEREAS, N.J.S.A. 13:17-21 provides the procedure for preparing and adopting redevelopment plans for areas determined to be renewal areas within the Hackensack Meadowlands District for the purpose of redevelopment; and

WHEREAS, on July 27, 1994, the Commission passed Resolution No. 94-21 and on September 27, 1995, the Commission passed Resolution No. 95-28 authorizing staff to conduct a preliminary investigation of the original tract: Block 150, Lots 30, 30A, 31, 33, 34, 35A, 35B, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, & 51 and Block 150A, Lots 52A, 52.01, 52.02, & 52.03; and the expanded area: Block 150A, Lots 64.01 & 64.02; respectively, to determine if they satisfied criteria to be designated as an area in need of redevelopment; and

WHEREAS, on July 26, 1995, the Commission passed Resolution No. 95-21 and on November 22, 1995, the Commission passed Resolution No. 95-39 declaring the areas to be in need of redevelopment and directed staff to prepare a redevelopment plan to include both the original tract and the expanded area, respectively; and

WHEREAS, the Commission passed Resolution No. 96-07 adopting the Belleville Turnpike Redevelopment Plan on February 28, 1996, for Block 150, Lots 30, 30A, 31, 33, 34, 35A, 35B, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, & 51 and Block 150A, Lots 52A, 52.01, 52.02, 52.03, 64.01, & 64.02; and

WHEREAS, Resolution No. 02-28 and No. 05-31, were adopted by the Commission on June 26, 2002, and February 23, 2006, respectively, amending the Belleville Turnpike Redevelopment Plan. The amendments expanded complementary uses and encouraged coordinated growth in the redevelopment area; and

WHEREAS, pursuant to N.J.A.C. 19:3-5.15, Russo Development, LLC, made a petition on April 19, 2006, to the NJMC to consider an amendment to the Plan to increase the allowable building height; and

WHEREAS, a public hearing was held on July 25, 2006, to obtain public comments concerning the proposed amendment to the Belleville Turnpike Redevelopment Plan; and

WHEREAS, the NJMC staff reviewed the petition request, as well as comments that were received at the public hearing and submitted in writing, and recommends that the Commission adopt the amended Belleville Turnpike Redevelopment Plan as proposed.

NOW, THEREFORE, BE IT RESOLVED that, based upon staff recommendations and the public comments received, the Commission hereby adopts the amended Belleville Turnpike Redevelopment Plan, dated October, 2006.

The foregoing was adopted by Commission vote.

Susan Bass Levin
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting on October 13, 2006.

Robert R. Ceberio
Secretary

Resolution No. 06-82

Memorandum

New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert R. Ceberio

From: Ileana Kafrouni Date: October 13, 2006

Subject: Belleville Turnpike Redevelopment Plan Amendment

Pursuant to N.J.A.C. 19:3-5.15, on April 19, 2006, Russo Development, LLC, submitted a petition to the NJMC to consider an amendment to the Belleville Turnpike Redevelopment Plan. The petition proposed an amendment to the redevelopment plan that would increase the maximum allowable building height from 50 to 70 feet.

On July 25, 2006, a public hearing was held to receive public comments regarding the proposed amendment. Russo Development made a formal presentation of their petition request. Richard Berger, the attorney representing Russo Development and Joe Spataro, Russo Development's professional planner, explained in detail the reasons for their request to increase the building height in the redevelopment area. Their justifications included smart growth principles, positive impacts to the tax base, and the establishment of complementary uses. No comments were received from the public regarding this proposed amendment.

The matter was forwarded to the HMMC at their meeting on October 2, 2006. At this time, Staff requests that the Commission adopt the Belleville Turnpike Redevelopment Plan, as amended, in an effort to continue to accommodate large-scale distribution facilities that are efficient and flexible.

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO
APPROPRIATE FUNDS TO DISTRICT MUNICIPALITIES UNDER THE
MUNICIPAL ASSISTANCE PROGRAM AND ESTABLISH FORMALIZED
MAP GUIDELINES AND APPLICATION**

WHEREAS, the Hackensack Meadowlands District consists of fourteen municipalities; ten in Bergen County and four in Hudson County; and

WHEREAS, many municipalities, because of financial constraints, cannot afford to purchase equipment, undertake repairs, expand recreational facilities and address flooding issues; and

WHEREAS, the New Jersey Meadowlands Commission (NJMC) created the Municipal Assistance Program (MAP) to facilitate these purchases and repairs and provide property tax relief to the fourteen Meadowlands communities; and

WHEREAS, the establishment of a formalized grant application and guidelines for the MAP grants would be advantageous to the operations of the NJMC.

NOW, THEREFORE, BE IT RESOLVED that the New Jersey Meadowlands Commission authorizes the Executive Director to appropriate \$1.4 million from the MAGNET fund for the Commission's Municipal Assistance Program; and

BE IT FURTHER RESOLVED that the District municipalities and NJMC staff will adhere to the attached MAP grant guidelines, and the municipalities will fully complete the attached MAP grant application.

The foregoing was adopted by Commission vote.

Susan Bass Levin
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting on October 13, 2006.

Robert R. Ceberio
Secretary

Memorandum

New Jersey Meadowlands Commission

To: NJMC Commissioners

From: Robert R. Ceberio

Date: October 13, 2006

Subject: Municipal Assistance Program

This Resolution authorizes the Executive Director to appropriate \$100,000 to each of the fourteen District municipalities totaling \$1.4 million under the Municipal Assistance Program (MAP). These funds will be appropriated from the New Jersey Meadowlands Commission's (NJMC) MAGNET fund. This grant program will provide the municipalities with financial support to purchase equipment, undertake repairs, expand recreational facilities and address flooding issues. This grant will help limit the property tax burden on the constituents of these municipalities by providing necessary financial support to our District municipalities.

In addition, this resolution authorizes the Executive Director to enact the rules and procedures stated in the "Guidelines for the New Jersey Meadowlands Commission's Municipal Assistance Program." These guidelines will provide the municipalities with rules, requirements and procedures that must be followed in the grant process. Also, the municipalities will be required to fill out the attached MAP application. The application must be completed in its entirety to be considered for MAP grant funding. Award announcement letters will be sent out by NJMC staff upon careful review of the applications.

GUIDELINES FOR THE NEW JERSEY MEADOWLANDS COMMISSION'S MUNICIPAL ASSISTANCE PROGRAM

Effective November 1, 2006, the following shall constitute the guidelines for the New Jersey Meadowlands Commission's (NJMC's) Municipal Assistance Program (MAP):

I. Eligible Programs, Projects, Equipment or Services.

MAP grants are awarded for the purpose of providing financial assistance to the fourteen (14) municipalities of the Meadowlands District. MAP grants may be used by a municipality for a wide range of needs that provide financial aid to offset costs as a result of growth in the District. The purpose and intent of the program is to wherever possible provide property tax relief and to undertake projects, programs and services that would not normally be undertaken because of financial constraints on our municipalities.

The following are illustrations of possible uses for MAP monies. Please keep in mind that this list is not exhaustive:

MAP grants may be used by a municipality for the purchase of law enforcement cars, motorcycles, bicycles or sports utility vehicles, equipment accessory to those police vehicles or any equipment to support public safety or emergency management.

Purchases of ambulances, fire engines or firefighting apparatus and department of public works equipment are also eligible. The MAP program can be used in whole or in part toward the purchase of these pieces of equipment. It is understood that under most circumstances that the purchase cost will be greater than the grant provided by the Commission. The municipality may also use the two year grant banking provision described below in these cases.

The MAP funds may also be used for park development and redevelopment, trails and sports facilities and lighting. Under no circumstance may the funds be used for municipal costs relative to the engineering and design of these facilities.

The grant may be used infrastructure improvements such as flood control, sewer, and road improvements. In these areas, the grant may be used for engineering and design work when the project is of such magnitude that it will involve several phases for completion. In these cases, a detailed engineering and design budget shall be submitted. The NJMC staff will review the budget to determine that the cost estimates contained therein are within industry ranges and standards. If necessary the NJMC reserves the right to make inquiries of the

municipality and the proposed engineering firm to discuss and review the information provided. The NJMC shall reject any engineering or design element that it deems to be extraordinary or unnecessary only after consultation with the municipality and its engineering firm.

Any municipality may request a preliminary interpretation from the Commission as to whether a project, program or purchase meets the intent of this program. Such an interpretation must be in writing with the NJMC responding in kind within 48 hours of receipt of the inquiry.

II. Grant Administration.

- a. On or before October 15, of each calendar year, municipalities will be notified by the NJMC of the funding level available for MAP grants. The NJMC in its sole discretion will set the maximum amount for which each municipality shall be eligible. Funding is contingent upon available NJMC monies.
- b. Municipalities seeking a MAP grant shall complete the attached Grant Application form in its entirety. The application must be accompanied by a Resolution from the municipality's governing body that authorizes the submission of the Grant Application and indicates the specific purpose of the grant as reflected in the Grant Application. Any Grant Application form that is deemed by the NJMC to be incomplete or which lacks the requisite Resolution shall be subject to automatic rejection.
- c. Complete applications must be received at least thirty (30) days prior to the date of an NJMC Commission Meeting at which meeting the NJMC shall act upon the application. The NJMC may adjust this deadline at its sole discretion.
- d. All grant awards must be spent within one (1) calendar year of the date upon which the grant is awarded. The municipality shall forfeit all funds not utilized within the one-year period. Such forfeited funds shall be returned to the MAP account. NJMC shall provide sixty (60) days notice prior to the expiration of the grant. In the event that a municipality forfeits its grant, it may resubmit a new application for the same project in the following year's grant cycle.
- e. A municipality may opt for "Two Year Banking", which permits the municipality to seek two years of MAP grants at once for the purpose of a large expenditure, program or project. A municipality seeking to do so must declare its intention in its Grant Application. Such requests may not be amended at a future date. Approval of "Two Year Banking" is subject to the sole discretion of the NJMC.
- f. Each municipality shall execute these guidelines, and such execution shall constitute an Agreement between the NJMC and the

municipality. The municipality must furnish NJMC with an authorizing resolution prior to execution.

- g. All grants will be furnished on a reimbursable basis. In order to be reimbursed, the municipality must submit to the NJMC a fully executed NJMC Voucher along with documentation proving purchase and receipt of the service, equipment or project. Such documentation should include but is not limited to copies of municipal requisitions, invoices, purchase orders, vendor invoices, proof of delivery and copies of checks issued to vendors or contractors. NJMC reserves the right to request additional proofs as it deems necessary.
- h. The municipality's Chief Financial Officer shall certify that the project, program and/or purchase has been completed and that the same are consistent with the Resolution adopted by the municipality relevant to the Grant Application.
- i. A municipality may amend its MAP Grant Application within six (6) months of award by resubmitting its application along with a new Resolution of its governing body. The NJMC's Finance Committee will consider such amendments and approve the same in its sole discretion.
- j. A municipality may seek advice or assistance from the NJMC staff in properly completing a Grant Application or an amendment to the same. All such requests must be made in writing to the NJMC Chief Financial Officer with copies to the NJMC Compliance Officer.
- k. Upon certification by the municipal Chief Financial Officer that the project is complete and after the documentation has been received by the NJMC, the NJMC's Compliance Officer shall conduct an audit to determine whether the grant was utilized in accordance with the within guidelines.
- l. The NJMC's Compliance Officer shall prepare an annual report to the NJMC's Compliance Committee regarding the MAP grant program and shall make recommendations regarding the same. The NJMC Compliance Officer may, at any time, make recommendations to the NJMC Chief Financial Officer that relate to the program's internal controls in order to ensure maximum accountability.
- m. The NJMC Chief Financial Officer and its Compliance Officer shall create a file for each grant application submitted by any municipality that shall include all records pertinent to that grant along with the final audit of the grant.

DATE REC'D:

(OFFICE USE ONLY)

**NEW JERSEY MEADOWLANDS COMMISSION
2007 MUNICIPAL ASSISTANCE PROGRAM GRANT APPLICATIONS
DUE BY MONTH DAY, YEAR**

- 1. Date Submitted:**
- 2. Name of Municipality:**
- 3. Project Description:**
 - a. Project Title:**
 - b. Project Details:**
 - c. Dollar amount of allocation requested:**
- 4. Is the Municipality opting for the Two year Banking?**
- 5. Is this the Original Submission of this Project?**
- 6. Is this an Amended Application? (If this is an amended application, a new budget a municipal resolution must be attached, or the application will be deemed incomplete):**
- 7. Primary Contact Information:**

Name:

Title:

Phone:

Fax:

E-mail:
- 8. Other sources of funding for the project:**
- 9. The following items must be included in your grant application, or the application will be deemed incomplete:**
 - a. Detailed Budget**
 - b. Authorizing Resolution**

**RESOLUTION AUTHORIZING A \$37,500 CONTRIBUTION TO THE
MEADOWLANDS CONSERVATION TRUST
FOR THE BALANCE OF CALENDAR YEAR 2006**

WHEREAS, in September 2005, the NJMC authorized the contribution of \$225,000 for operating expenses through September 30, 2006 for the Meadowlands Conservation Trust; and

WHEREAS, the Trust was created for the purpose of acquiring open space located in the Hackensack Meadowlands or within the Hackensack River watershed, to be permanently preserved and managed in their natural state; and

WHEREAS, the Trust has been receiving revenues from the sale of special Meadowlands license plates for its administrative expenses and land acquisition activities; and

WHEREAS, these revenues are not sufficient to fully cover its activities.

WHEREAS, the NJMC is requesting to bring the annual contribution in line with the calendar year within which both entities operate and undergo annual audits.

NOW, THEREFORE BE IT RESOLVED by the New Jersey Meadowlands Commission the Executive Director is authorized to appropriate \$37,500 to the Meadowlands Conservation Trust for operating expenses for the period October 1, 2006 through December 31, 2006.

The foregoing was adopted by Commission vote.

Susan Bass Levin
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting on October 13, 2006.

Robert R. Ceberio
Secretary

Memorandum

New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Irfan A. Bora Date: October 13, 2006

Subject: Meadowlands Conservation Trust

In September 2005, the NJMC authorized the contribution of \$225,000 for operating expenses for the Meadowlands Conservation Trust. The Trust was created for the purpose of acquiring open space located in the Hackensack Meadowlands or within the Hackensack River watershed, to be permanently preserved and managed in their natural state.

The Trust has been receiving revenues from the sale of special Meadowlands license plates for its administrative expenses and land acquisition activities. However, these revenues are not sufficient to fully cover its activities. This resolution will authorize the Executive Director to appropriate \$37,500 for operating expenses for the period October 1, 2006 through December 31, 2006. Authorization of this resolution will effectively convert the Commission's contribution to a calendar year basis.

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR
TO ENTER INTO A CONTRACT FOR HVAC
SYSTEMS MAINTENANCE AND SERVICE**

WHEREAS, the New Jersey Meadowlands Commission published bid notices in the Bergen Record, Jersey Journal and Star Ledger for the service and maintenance of the heating, ventilation and air conditioning system (HVAC) located within the NJMC building complex.

WHEREAS, on Monday August 7, 2006 four firms submitted bids. The lowest responsive bidder was Carrier Corporation of Fairfield, New Jersey. Carrier quoted \$19,000, followed by Howe Environmental \$19,960, Binsky & Snyder \$24,341 and Dowling/Giaquinto Heating & Air Conditioning \$24,450.

WHEREAS, staff has reviewed all submissions and checked all references, and has determined that Carrier Corporation is the lowest responsible bidder.

NOW THEREFORE BE IT RESOLVED, by the New Jersey Meadowlands Commission that the Executive Director is hereby authorized to enter into a first year contract with Carrier Corporation of Fairfield, N.J. in an amount not to exceed \$19,000.00.

BE IT FURTHER RESOLVED, that the Executive Director at his discretion, is hereby authorized to exercise a second year option in an amount not to exceed \$19,000.00, a third year option in an amount not to exceed \$19,760.00 and a fourth year option not to exceed \$20,550.00.

BE IT FURTHER RESOLVED, that the Executive Director at his discretion may terminate the contract of Carrier Corporation for non-compliance and award the balance of the contract to the next lowest responsive bidder, should circumstances so warrant.

The foregoing resolution was adopted on Commission vote.

Susan Bass Levin
Chairman

I hereby certify the foregoing to be a true copy of the resolution adopted by the New Jersey Meadowlands Commission at its meeting of October 13, 2006.

Robert R. Ceberio
Secretary

Resolution 06-85

Memorandum

New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Irfan Bora and Ed Barkala Date: October 13, 2006

Subject: HVAC MAINTENANCE AND SERVICE CONTRACT

On July 14, 2006, a request for bids for maintenance and service on the heating and air conditioning systems located within the NJMC Administration Building and Environment Center was published in the Star-Ledger, Jersey Journal and Bergen Record. As a result, twelve (12) firms requested bid packages. On July 31, 2006, there was a mandatory walk through and eight (8) firms attended the site inspection at the Commission.

At the public bid opening on Monday August 7, 2006, four (4) firms submitted proposals: Binsky & Snyder Service, Carrier Corporation, Howe Environmental Company and Dowling / Giaquinto Heating & Air Conditioning. The bid was broken down into periods of one, two, three and four year alternates. The lowest responsive bidder was Carrier Corporation of Fairfield, New Jersey. Carrier quoted \$19,000, followed by Howe Environmental at \$19,960, Binsky & Snyder at \$24,341 and Dowling/Giaquinto Heating & Air Conditioning at \$24,450. The Commission at the end of the first year will have the option to extend the contract for a second, third and fourth year.

	1 st Year	2 nd Year	3 rd Year	4 th Year
Carrier	\$ 19,000.00	\$ 19,000.00	\$ 19,760.00	\$ 20,550.00
Binsky & Snyder	\$ 24,341.00	\$ 24,907.00	\$ 25,473.00	\$ 26,039.00
Howe Environmental	\$ 19,960.00	\$ 20,560.00	\$ 21,500.00	\$ 22,200.00
Dowling / Giaquinto	\$ 24,450.00	\$ 25,462.50	\$ 26,687.75	\$ 28,020.00

Last year the Commission paid \$16,695 for the maintenance and service of all units. Therefore, staff recommends that we award a one-year contract to Carrier Corporation in the amount of \$19,000.

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO
ESTABLISH A FORMALIZED PURCHASING AND PROCUREMENT
PROCEDURES FOR THE NEW JERSEY MEADOWLANDS COMMISSION**

WHEREAS, the New Jersey Meadowlands Commission (NJMC) is given its purchasing and procurement requirements from state statutes and executive orders; and

WHEREAS, NJMC staff has determined that the establishment of formalized purchasing and procurement procedures, to streamline the purchasing and procurement processes and ensure compliance with state statutes and executive orders would be advantageous to the operations of the NJMC; and

WHEREAS, this amended procedure will create a purchasing and procurement structure at the NJMC that will manage all aspects of the NJMC purchasing and procurement activities; and

WHEREAS, this purchasing and procurement structure will be part of the Finance Division, and its representatives will report to the Assistant Chief Fiscal Officer; and

WHEREAS, the staff of the purchasing and procurement offices will work with the project managers from the various departments at the NJMC to ensure that the requested goods and/or services are obtained; and

WHEREAS, the staff of the procurement office will draft, review and manage all Request for Qualifications, Request for Proposals, contracts, and Memorandum of Understanding, as it is articulated in the attached Purchasing and Procurement Procedures; and

WHEREAS, the staff of the purchasing office will work with the procurement staff to ensure that proper procedures are followed pursuant to New Jersey state law, executive orders, and the attached Purchasing and Procurement Procedures.

NOW, THEREFORE, BE IT RESOLVED, that the New Jersey Meadowlands Commission authorizes the Executive Director to adopt the attached Purchasing and Procurement Procedures, and immediately move forward with their implementation.

The foregoing was adopted by Commission vote.

Susan Bass Levin
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting on October 13, 2006.

Robert R. Ceberio
Secretary

Resolution No. 06-86

Memorandum

New Jersey Meadowlands Commission

To: NJMC Commissioners

From: Robert R. Ceberio Date: October 13, 2006

Subject: Procurement Policy Procedure

This resolution would authorize the Executive Director to establish a formalized purchasing and procurement procedure for the New Jersey Meadowlands Commission. This resolution will formalize the rules and procedures that will be followed by NJMC staff concerning the purchasing and procurement of goods and/or services by the Commission. Under this procedure, bid documents, the obtaining of three quotes, the drafting of contracts, etc. will only be drafted and circulated by the contract unit at the Commission. The contract unit will be responsible for all aspects of the procurement of goods and/or services through the signing of the contract. After the contract has been signed, the purchasing unit will be responsible for all aspects of the contracts execution including; receipt of goods, processing of invoices, etc.

This procedure will streamline the purchasing, procurement and contract processes as the Commission. In addition, this staff will continually monitor new state statues and executive orders that are passed, and ensure that these additional requirements are adopted into the Commission's procurement procedures.

The attached procurement procedure provides additional information about this formalized purchasing and procurement procedure.

NEW JERSEY MEADOWLANDS COMMISSION DRAFT PROCUREMENT POLICIES AND PROCEDURES

Purchasing and Procurement Procedure

EFFECTIVE DATE: TBD

The general purpose of this procedure is to provide a more efficient and expedient manner for securing goods and services for the New Jersey Meadowlands Commission (NJMC or agency). The goal of this procedure is to ensure that all NJMC employees are aware of the proper procedures to obtain goods and services; to clearly define the procurement process; to delineate authorized purchase approval limits; and to establish price competition requirements.

DEFINITIONS

Assistant Chief Fiscal Officer means the individual duly assigned the authority, responsibility and accountability for the purchasing activity of the NJMC. Oversees the Contract Manager, and the Purchasing Manager. Reports to the Chief Fiscal Officer.

Bid Documents means all RFI, RFQ, and RFP documents.

Bid Security is a guarantee, that the bidder will accept the contract as bid and must be in one of the following forms:

- i. A certified or cashier's check payable to the New Jersey Meadowlands Commission; or
- ii. An individual or annual bid bond issued by an insurance or security company authorized to do business in the State of NJ;
- iii. An irrevocable letter of credit naming the NJMC as beneficiary issued by a federally insured financial institution.

If the bidder does not accept the awarded contract, the bidder or the guarantor will be liable for the amount of the loss suffered by the agency and this loss may be partially or completely recovered through the bid security.

Chief Fiscal Officer means the individual duly assigned the authority responsibility and accountability for all activities in the Finance Department.

Contract means any written agreement, including but not limited to a purchase order or a formal agreement, which is a legally binding relationship enforceable by law, between a vendor who agrees to provide or perform goods or services and a contracting unit which agrees to compensate a vendor, as defined by and subject to the terms and conditions of the agreement. A contract may also include an arrangement whereby a vendor compensates a contracting unit for the vendor's right to perform a service, such as, but not limited to, lease of NJMC property.

Contract Manager means the individual duly assigned the authority, responsibility and accountability for all bid documents, including but not limited to RFQ's, RFP's, MOU's, MOA's, and contracts. Oversees the entire bid process, and reports to the Assistant Chief

NEW JERSEY MEADOWLANDS COMMISSION DRAFT PROCUREMENT POLICIES AND PROCEDURES

Fiscal Officer. The Contract Manager is also responsible for all of the duties set forth in N.J.S.A 52:34-10.7.

In addition, the Contract Manager also performs the duties of the NJMC Grant Administrator. They will perform the administrative duties associated with all grants received by the NJMC, and all grants issued by the NJMC.

Contracting Unit means the subdivision of the Procurement Division of the Finance Department of the NJMC responsible for the drafting of all bid documents and contracts.

Ethics Liaison Officer means the individual duly assigned the authority, responsibility and accountability for ensuring agency compliance with ethical standards in state government, and routinely auditing NJMC contracts and bidding process.

“Goods and Services” or “goods or services” means any work, labor, commodities, equipment, materials, products or supplies of any tangible or intangible nature, except real property or any interest therein, provided or performed through a contract.

Memorandum of Understanding (MOU) is a contract with another governmental entity, a non-profit organization, or an academic institution.

Performance Security is a guarantee executed prior to award, in the form of a bond or deposit, that the successful bidder will complete the contract as agreed and that the NJMC will be protected from loss in the event the contract is not completed as agreed. The NJMC will require some type of insurance verification as applicable.

Procurement is the procedure for obtaining goods or services, including all activities from the planning steps and preparation and processing of a requisition and execution of a purchase order or contract. Verification of receipt of goods and acceptance of delivery shall be received by Purchasing Unit. Verification of delivery of service shall be completed by Requisitioner. Upon acceptance of goods and services, a final invoice is completed and forwarded to the Finance Department for payment.

Professional Services means services rendered or performed by a person authorized by law to practice a recognized profession, whose practice is regulated by law, and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. Professional services may also mean services rendered in the provision or performance of goods or services that are original and creative in character in a recognized field of artistic endeavor.

Purchase means a transaction, for a valuable consideration, creating or acquiring an interest in goods, services and property.

NEW JERSEY MEADOWLANDS COMMISSION DRAFT PROCUREMENT POLICIES AND PROCEDURES

Purchase Order is when the Purchasing Manager, or their staff authorize a purchase order with a vendor to provide or perform goods or services to the NJMC, which, when fulfilled in accordance with the terms and conditions of a request of a purchasing agent or contracting agent and other provisions and procedures that may be established by the Purchasing Manager, will result in payment by the Finance Department.

Purchasing Unit means the subdivision of the Procurement Division of the Finance Department of the NJMC responsible for all purchasing activities at the NJMC and working with the Assistant Chief Fiscal Officer to manage agency funds. All invoices are submitted to the Purchasing Unit to approval that stated goods and services were received by the Requisitioner.

Purchasing Manager means the individual duly assigned the authority, responsibility and accountability for all NJMC purchasing, including but not limited to overseeing the execution of contracts approved by the Contract Manager, collecting invoices, and working with the Chief Fiscal Officer and Assistant Chief Fiscal Officer to manage agency funds. Reports to the Assistant Chief Fiscal Officer.

Regular Place of Business means a bona fide office, factory, warehouse or other space that is regularly maintained by the bidder, occupied by one or more of the bidder's employees and used in the operation of the bidder's business. Maintenance of a temporary job site or field office in New Jersey, the storage of goods in New Jersey, and the employment of an independent agent or subcontractor in New Jersey does not constitute a regular place of business.

Request for Information (RFI) is the document which is used by the agency to potential vendors to enable them to register an interest in becoming a preferred supplier for the agency.

Request for Proposal (RFP) is the document issued by the agency to initiate an advertising, bidding and contract awarding process. The RFP establishes the contract's basic terms and conditions, the product and/or service specifications, scope of work, and the bidding requirements. The bidding requirements may include a set-aside provision that restricts bidding eligibility to businesses qualified as small business, minority business or women-owned business.

Request for Qualifications (RFQ) is the document issued by the agency to initiate qualifications from a potential vendor.

Requisition Order means a document which the project manager submits to the Requisitioner to secure goods and/or services on behalf of the agency. The Requisitioner submits this Requisition Order to the Contract Unit to request goods and/or services for their Department. The the Contract Unit reviews the Requisition Order and determines and executes the required process to obtain the needed goods and/or services. Upon completion of this process, the Contract Unit will submit the completed Requisition Order to the Purchasing Unit who will authorize a Purchase Order.

**NEW JERSEY MEADOWLANDS COMMISSION DRAFT PROCUREMENT POLICIES
AND PROCEDURES**

NOTE: Requisition Orders may only be submitted to the Purchasing Unit by the respective Department's Requisitioner.

Requisitioner means the individual(s) given the authority from the Department Director, to request goods or services on behalf of the agency.

"Service or services" means the performance of work, or the furnishing of labor, time, or effort, or any combination thereof, not involving or connected to the delivery or ownership of a specified end product or goods or a manufacturing process. Service or services may also include an arrangement in which a vendor compensates the contracting unit for the vendor's right to perform a service on leased NJMC property.

State of New Jersey Invoice means the State of New Jersey Invoice that must be completed by the vendor and submitted along with the Vendor Invoice. State Invoice must be signed by the vendor and completed in full.

Vendor Invoice means the invoice submitted by the vendor reflecting goods received and the compensation requested, along with the vendor name and address. This document must be accompanied by a State of New Jersey Invoice. This invoice is to be submitted to the Purchasing Manager for approval of receipt of the goods and services referenced in the Vendor Invoice.

Vendor Index means the list of vendors that the Contract Unit will pre-qualify to deliver a good or service to the NJMC. Requisitioners and the Purchasing Unit are required to select a vendor from this list, only for goods or services that are not required to undergo a public RFI, RFQ or RFP process. This preselection will be completed every other year beginning December 31, 2006. The Contract Unit will work with the Departments to determine which goods or services the NJMC will need on a regular basis (i.e. electrician and plumber services). These services will be advertised in the form of an RFQ or RFP to pre-qualify firms to be included in the NJMC's Vendor Index. The Contract Unit will develop guidelines and procedures for the development of the Vendor Index, and define the process by which a vendor must comply in order to be included in the Index. In addition, a policy and procedure will be developed by the Contract Unit outlining the process, that vendors submitting proposals or qualifications after the deadline given in the RFQ or RFP, will need to complete in order to be added as an addendum to the Index.

In the event that a good or service need cannot be provided by a vendor on the Vendor Index, then the Assistant Chief Fiscal Officer can authorize the Requisitioner or Purchasing Unit staff to solicit the needed bid documentation pursuant to New Jersey State Law.

NOTE: Any goods or services that are procured using a formal RFQ or RFP process does not need to use the vendors listed on the Vendor Index. The Vendor Index is only to be used for goods and/or services that do not require a formal RFQ or RFP process pursuant to New Jersey State Law.

**NEW JERSEY MEADOWLANDS COMMISSION DRAFT PROCUREMENT POLICIES
AND PROCEDURES**

I. RESPONSIBILITY FOR PROCUREMENT ACTIVITIES

a. Responsibility for Procurement Activities

The Executive Director or assigned designee is responsible for the New Jersey Meadowlands Commission (Agency) procurement activities, which include the purchase of goods and services and entering into contracts and agreements. The Executive Director has assigned the day-to-day responsibility for these procurement activities to the Assistant Chief Fiscal Officer.

i. Chief Fiscal Officer

1. Approval required for all procurement activities.

ii. Assistant Chief Fiscal Officer

1. Reports to the CFO, and is responsible for overseeing and managing all procurement activities.

iii. Purchasing Manager

1. Reports to the Assistant Chief Fiscal Officer, and is responsible for the purchasing of all goods and services at the NJMC after the vendor has been determined.
 - a. Serves as liaison to all vendors of the NJMC.
 - b. Executes all purchase orders for the NJMC.
 - c. Processes all invoices.
 - d. Prepares set-aside reports for state contract vendors, and maintains list of state-registered vendors.
 - e. Where feasible, receives all goods and services, and distributes to Requisitioner.
2. Activates and deactivates vendors as required.

iv. Contract Manager

1. Reports to the Assistant Chief Fiscal Officer, and is responsible for executing all actions related to a public bid document and the drafting of a contract.
 - a. Processes all Requisition Orders.
 - b. Drafts all RFI's, RFQ's, and RFP's based upon Scope of Work provided by Project Manager and approved by the Assistant Chief Fiscal Officer and Chief Counsel (when necessary).
 - c. Obtains three quotes for all of the agencies goods and/or services under the agencies bid threshold determined by the New Jersey Department of the Treasury pursuant to N.J.S.A. 52:34-7(b).
 - d. Properly advertises and releases all bid documents.
 - e. Receives and opens all responses to bid documents, and then distributes to Project Manager for evaluation and determination of winning bidder.
 - f. Receives and addresses all bidder questions during the procurement process.
 - g. Works with winning bidder to negotiate the terms of the contract, as appropriate, including all MOU's and MOA documents for approval by CFO and Chief Counsel.

**NEW JERSEY MEADOWLANDS COMMISSION DRAFT PROCUREMENT POLICIES
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- h. Works with Chief Counsel, Department of Law and Public Safety, and the Division of Purchase and Property in the Department of Treasury to ensure that NJMC is compliant with its bid procedures and contract language and state requirements.
 - i. Handles change orders as per procedure.
 - j. Responsible for arranging for contract extensions and preparing any re-procurement of the contract.
 - k. Keep written records of each pre-award communication from the date of advertisement for the term of the contract plus 3 years.
 - 2. Serves as NJMC Grant Administrator
 - a. Responsible for administrative duties as they relate to grants issued by the NJMC.
 - i. Manages Meadowlands Area Grants for Natural and Economic Transformation.
 - ii. Distributes letters to grant recipients after grants have been approved by the NJMC Board of Commissioners.
 - iii. Receives invoices for goods and/or services obtained by grant recipients in accordance with the terms of the grant.
- v. Department Director
 - 1. Accountable for their Departments budget.
 - 2. Authorizes all expenditures from their department.
- vi. Project Manager
 - 1. Drafts scope of work to be provided to Contract Manager for the drafting of the bid documents, to be approved by Department Director.
 - 2. Completes requisition order for goods and services needed, to be approved by their respective Department's Requisitioner and Director.
 - 3. Evaluates all responses to bid documents after they have been opened by the Contract Manager, or their staff.
 - 4. Based upon evaluation of bid responses, submits to Contract Unit the winning bidder and/or the ranking of the bid responses.
 - 5. Maintains financial oversight of project's contractual budget and activities.
 - 6. Prepares change orders as required.
- vii. Ethics Liaison Officer and/or Compliance Officer
 - 1. Responsible for working with the Chief Counsel and Contract Manager in monitoring changes to NJ State laws as they affect the NJMC and specifically as they relate to NJMC's procurement activities.
 - 2. Responsible for routinely auditing progress of current contracts.
 - a. Audit sufficient sample of contracts to ensure compliance with all NJ state laws and Executive Orders.
- b. Purchasing Procedure

The following outlines the purchasing procedure for requests that do not require involvement by the Contract Manager, as a public bid process is not required pursuant to New Jersey State Law.

NEW JERSEY MEADOWLANDS COMMISSION DRAFT PROCUREMENT POLICIES AND PROCEDURES

i. The Request

The following steps must be completed “prior to” securing any goods or services.

1. Complete Requisition in its entirety by Requisitioner.
2. Obtain approval (signature) of Department Director.
3. Submit to Contract Unit.
4. Contract Unit obtains all required information for execution of the purchase order in accordance with
 - a. New Jersey State laws
 - b. Department of Law and Public Safety requirements and opinions
 - c. NJMC policies and procedures
 - i. Including the approvals necessary for a completed purchase order, outlined in Section 3a.

ii. The Purchase Order

The Purchase Order is considered “approved” only when the four steps in Section 1bi have been completed. Any Purchase Order, which is lacking in any of the four steps, will be considered a “disapproved” purchase. Goods and services can only be secured when the four steps are completed.

iii. The Receipt of Goods and/or Services

The approved goods and/or services is to be received by the Purchasing Unit, before distribution to the Requisitioner, unless otherwise stipulated by the Purchasing Manager with authorization from the Assistant Chief Fiscal Officer.

c. Contract Procedure

The following outlines the contract procedure for requests that require a bid document to be completed and released.

i. The Request

The following steps must be completed “prior to” securing goods and/or services.

1. Complete Scope of Work in its entirety by Project Manager.
2. Obtain necessary approval pursuant to New Jersey State Law, or NJMC policies and procedures:
 - a. If Board Commissioners approval is necessary, obtain copy of signed resolution authorizing work
 - b. If Board of Commissioners approval is NOT necessary, obtain approval (signature) of Department Director.
3. Submit to Contract Unit

ii. The Bid Document

1. Contract Unit drafts necessary bid documents and includes all required documentation in accordance with:

**NEW JERSEY MEADOWLANDS COMMISSION DRAFT PROCUREMENT POLICIES
AND PROCEDURES**

- a. New Jersey State Laws
 - b. Department of Law and Public Safety requirements and opinions
 - c. NJMC policies and procedures
 2. When necessary, the Chief Counsel reviews bid documents before they are advertised and released.
 3. The bid documents are released by the Contract Unit and advertised in the necessary and required locations.
 4. Contract Unit coordinates the answering of any questions with potential respondents to the bid document.
 5. Contract Unit receives and opens responses to the bid document.
 6. Contract Unit submits valid responses to the bid document to the Project Manager for evaluation of the responses.
 7. Contract Manager certifies Project Manager's evaluation and drafts a Notice of Intent to Award letter to be sent to the winning bidder and sends rejection letters to all other respondents of the bid documents.
 8. After the EO134 documents have been approved by the State Treasurer, the Contract Manager drafts a Notice of Award Letter to the winning bidder.
- iii. The Contract
1. Contract Manager drafts contract with the vendor, and the Purchasing Manager receives all invoices for goods or services provided from the goods or services that were provided in response to the bid documents.

2. APPROVAL LIMITS FOR PURCHASE OF GOODS AND SERVICES

a. Budgeted & Unbudgeted Purchases

The authority to expend NJMC funds to procure particular goods and services in a given calendar year appears in the NJMC's annual budget for that fiscal year, as approved by the NJMC Board of Commissioners.

b. Approval Requirements

The purchases of goods and services must be approved as listed below according to the specific dollar limits.

\$0 - \$9,999	Requisitioner Director of Requesting Department Contract Manager Purchasing Manager Assistant Chief Fiscal Officer Chief Fiscal Officer
\$10,000 – \$28,999	Requisitioner

**NEW JERSEY MEADOWLANDS COMMISSION DRAFT PROCUREMENT POLICIES
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Director of Requesting Department
Contract Manager
Purchasing Manager
Assistant Chief Fiscal Officer
Chief Fiscal Officer
Executive Director

\$29,000 – ABOVE

Requisitioner
Director of Requesting Department
Contract Manager
Purchasing Manager
Assistant Chief Fiscal Officer
Chief Fiscal Officer
Executive Director
Board of Commissioners

3. REQUIREMENTS FOR PRICE COMPETITION

The approval of specific purchases of goods and services as set forth in Section 2b is subject to the following requirements for price competition.

- a. For purchases or services not exceeding \$4,350, good business judgment should be used to ensure that the best price is secured.
- b. For purchases or services of more than \$4,350 but less than \$29,000, three written or telephone quotations are required. All written quotations are time and date stamped by the Contract Unit staff upon receiving the quotations. The telephone quotations are entered on an NJMC form that reflects the date, time and dollar amount of the telephone quote. The Contract Manager maintains this form.
- c. For purchases or services exceeding \$29,000 Requests for Proposals (RFP's), calling for the submission of a sealed bid at a specific time and place, are required and will be publicly advertised. Solicitations are to be conducted fairly and impartially, according to standardized formats, and in a manner designed to generate the largest response possible from prospective bidders to obtain adequate competition.
- d. Throughout the procurement process, records will be maintained of vendors solicited and the responses received, and the basis of all awards will be documented.
- e. No purchases or contracts may be intentionally divided into partial purchases/contracts to circumvent the imposed dollar limits.
- f. All proposals, bids, or other responses to an advertised contract shall be submitted in written or electronic form and, in cases where the contract is to be awarded to

NEW JERSEY MEADOWLANDS COMMISSION DRAFT PROCUREMENT POLICIES AND PROCEDURES

the low bidder, shall be sealed until opened with all other bids.

- g. The NJMC may hold pre-bid conferences with interested parties to explain project specifications, to explain the factors on the basis of which the contract will be awarded, and/or to answer any questions. This location, time, and other information concerning the pre-bid conference shall be set forth with the advertised contract or otherwise appropriately advertised prior to the due date for responses.
- h. Absent exceptional circumstances, contracts for the purchase of materials, products, supplies, and non-professional services shall be awarded to the lowest responsible bidder that submits a responsive bid. Where the Contract Manager proposes to award such a contract to someone other than the low bidder, it must explain the exceptional circumstances justifying such a decision in the proposed resolution awarding the contract, pursuant to Governor Jon Corzine's Executive Order No. 37.

4. EXCEPTIONS TO THE REQUIREMENTS FOR PRICE COMPETITION

The following are exceptions to the items presented in Section 3 and are subject to the requirements presented in this Section 4.

- a. Bond Sales and the Awarding of Professional Services

The issuance and sale of the agency bonds, notes and other obligations and the awarding of underwriting, bond counsel, architectural, engineering and other professional contracts were established by Governor Whitman's Executive Order No. 26. The NJMC may award contracts for professional services or technical services on the basis of multiple factors as opposed to simply on the basis of cost. The Contract Manager will set forth in writing the scoring factors and scoring procedures that must be used to ensure that a fair and transparent process for awarding such contracts is followed pursuant to Governor Corzine's Executive Order No. 37.

Also, pursuant to Executive Order No. 37, the NJMC shall, "prior to receipt of any proposals or qualifications concerning a professional service or technical service contract, the NJMC shall establish an appropriately qualified Evaluation Committee to review and score the proposals submitted." The NJMC Ethics Liaison Officer will screen the members of the committee for conflicts of interest and for the appearance of such a conflict.

(The professional services, such as audit, arbitration and insurance can be secured through a sealed proposal where price and other factors are considered.)

- b. State Contract Purchasing

**NEW JERSEY MEADOWLANDS COMMISSION DRAFT PROCUREMENT POLICIES
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Whenever the agency purchases goods or services under State contract, it is not necessary to obtain additional bids.

c. Services and/or Goods Provided by Sole Source Vendor

Occurs only if the goods and/or services required by the Agency to be provided are of a specialized nature that may be made or marketed by a person or persons having the exclusive right to make or sell them, and the need for such goods or services has been certified in writing and approved by the Chief Counsel to be necessary for the conduct of its affairs.

d. Expenses for Travel and Conferences

e. Bids have been advertised pursuant to Procurement Policy on two occasions and (a) no bids have been received on both occasions in response to the advertisement, or (b) bids have been rejected on two occasions because it has been determined that they are not responsible as to price, on the basis of cost estimates prepared for or by the Contract Manager prior to the advertising therefore, or have not been independently arrived at in open competition, or (c) on one occasion no bids were received pursuant to (a) and on one occasion all bids were rejected pursuant to (b), in whatever sequence; any such contract may then be negotiated and may be awarded, provided, however, that:

- i. A reasonable effort is first made by the Contract Manager to determine that the same equivalent goods and/or services, at a cost which is lower than the negotiated price, are not available from an agency or authority of the United States, the State of New Jersey.
- ii. The terms, conditions, restrictions and specifications set forth in the negotiated contract are not substantially different from those which were the subject of competitive bidding.
- iii. Any minor amendment or modification of any of the terms, conditions, restrictions and specifications, which are subject to competitive bidding shall be stated in the awarding of the contract; provided further, however, that if on the second occasion the bids received are rejected as unreasonable as to price, the Contract Manager shall notify each responsible bidder submitting bids on the second occasion of its intention to negotiate, and afford each bidder a reasonable opportunity to negotiate.

f. The provision of performance of goods and services for the support or maintenance of proprietary computer hardware and software, except the provision shall not be utilized to acquire or upgrade non-proprietary hardware or acquire or update non-proprietary software.

**NEW JERSEY MEADOWLANDS COMMISSION DRAFT PROCUREMENT POLICIES
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g. Emergency Procurement

The Executive Director may waive the price competition requirements of Section 3 in emergency situations in which the Executive Director finds that delaying the procurement until after the price-competition requirements are met would either (i) jeopardize the health, safety or welfare of the citizens of New Jersey or the residents of any NJMC assisted development or other specified individuals or (ii) substantially impair the NJMC's accomplishment of its statutory mission.

h. Contracts with the federal or any state government or any agency or political subdivision thereof.

5. SPECIAL SET-ASIDE PROGRAMS

The NJMC complies with the New Jersey State's statutorily-mandate small business set-aside contracting program (N.J.S.A. 52:32-17 et seq.) and Executive Order 71 requiring that each State department make a good faith effort to award a total of 25% of the dollar value of State contracts to eligible small businesses. To be eligible for the program, small business must have no more than 100 permanent employees and have their principal place of business in New Jersey as defined by either of these conditions:

- 51% of the company's current employees work in NJ supported by paid unemployment taxes.
- 51% of the applicant's business is conducted in NJ supported by income and/or business tax returns.

6. REQUESTS FOR PROPOSALS (RFP's)

a. Advertising of Bids

For purchases expected to exceed \$29,000 Requests for Proposals (RFP's) will be issued and publicly advertised. The RFP will provide instructions; a description of the required goods or services; specifications; and terms and conditions to assist in the preparation of a competitive bid. Advertisements will be placed in local newspapers within the State and may also appear in private and trade publications. Advertisements will appear a minimum of ten (10) days in advance of the bid opening.

If a potential bidder has questions about the specifications or needs clarification, the bidder must contact the Contract Manager in writing. The Contract Manager's name, phone number, and mailing address will be included in the RFP. If it becomes necessary to amend the RFP, an amendment(s) will be issued as follows:

- Addendums will be publicly advertised in an official newspaper a minimum of seven (7) working days (excluding Saturday, Sunday and state holidays) in advance of bid opening date and time, which will be extended, if necessary in order to meet the seven (7) day requirement.

b. Bid Requirements

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i. Delivery

All bids must be received at the location specified by the NJMC on or before the date and exact time specified in each RFP. Bidders assume all responsibility for their mailed bids despite problems that might occur in the postal delivery process. The bidder should follow all directions contained in the RFP and take all necessary steps to meet the precise deadlines. Failure to comply will result in automatic rejection of the bid.

ii. Signature

All bids must have original signatures in ink. Failure to comply will result in automatic rejection of the bid.

iii. Documents

The following documents are to be included in the RFP:

- a. Three (3) copies of bid (one marked "ORIGINAL" and the other two marked as "COPY).
- b. Mandatory Affirmative Action Language, N.J.S.A. 10:5-31 and N.J.A.C. 17:27
- c. Signed Bidder's Checklist.
- d. Affidavit of Compliance with Instructions to Bidders.
- e. Completed Bid Structure Information Sheet.
- f. Statement of Ownership.
- g. Statement of Experience, if necessary.
- h. Bid Bond made payable to the Agency; if required.
- i. Consent of Surety; if required.
 - Certificate of Liability Insurance
 - General Liability Insurance
 - Automobile Liability Insurance
 - Workers' Compensation and Employers' Liability Insurance
- j. Copy of Certificate from New Jersey Department of Labor Public Works Contractor, if necessary
- k. Pursuant to Public Law 2005, Chapter 51 (Executive Order 134) Certification.
- l. Pursuant to Public Law 2005, Chapter 92 (N.J.S.A. 52:34-13.2) and Executive Order 129 Certification, if necessary.
- m. Pursuant to Public Law 2005, Chapter 271 Vendor Certification and Political Contribution Disclosure Form.
- n. Pursuant to Public Law 2004, Chapter 57 Copy of New Jersey Business Registration Certificate.
- o. Certification of Compliance with Governor Kean's Executive Order 189.

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iv. Price Alterations

Prior to submission, any changes on the bid form must be individually initialed and dated by the bidder in ink adjacent to the change. If any change is not initialed, the bid will be automatically rejected.

v. Additional Bid Information

For RFP's requiring price lists, product literature or other information with the bids, these materials must be provided at the time of bid opening or the bid may be automatically rejected.

vi. Brand Name Alternatives

Brand names and/or descriptions used in RFP's are frequently designed to acquaint bidders with the type and function of the commodity to be purchased. Brand names may be used as a standard by which alternate or competitive materials may be evaluated. When bidders are proposing an alternate product, a full explanation of the variation between alternate and the specified brand name product and the reasons for substitution and the advantages of the substitution must be provided in the appropriate space in the bid or in an accompanying letter. The bid will be disqualified if a written explanation of the substitution is not received prior to bid opening.

vii. Affirmative Action

All contracts issued by a Public Agency must contain the mandatory affirmative action language set forth in N.J.A.C. 17:27-1.1 et seq. During a review, Department of the Treasury Division of Contract Compliance and EEO in Public Contracts representatives will review the Public Agency's contract to ensure compliance with this provision.

All bidders are required to submit to the NJMC evidence of compliance with, N.J.A.C. 17:27-1.1 et seq. regarding Affirmative Action. Bidders must:

- a. Provide a copy of the Federal or State Certificate of Affirmative Action Approval OR, if certification has not been attained, submit Form AA-302, Affirmative Action Employee Information Report; **AND**

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- b. Provide an executed Exhibit A, N.J.S.A. 10:5-31 et seq. N.J.A.C. 17:27 Mandatory Affirmative Action Language Form for Goods, Professional Services and General Service Contracts. Provide an executed Exhibit B, N.J.S.A. 10:5-31 et seq., N.J.A.C. 17:27 for Construction Contracts.

viii. Ownership Disclosure

When the RFP stipulates, in accordance with N.J.S.A. 52:25-24.2, all partnerships and corporations are required to disclose with their bids the names and addresses of all owners holding ten (10) percent or more of the firm's stock or interest. Failure to do so will disqualify the bid. The list must be current at the time of the contract award.

ix. Bid Security

When the RFP stipulates a bid security, the security must accompany the bid, and must be one of the following forms:

- a. A certified or cashier's check payable to the Agency, OR
- b. An individual or annual bid bond issued by an insurance or security company authorized to do business in the State of New Jersey; **OR**
- c. An irrevocable letter of credit naming the Agency as beneficiary issued by a federally insured institution.
- d. Failure to provide the required security will result in automatic rejection of the bid. All bid guarantees will be returned upon completion of the bid evaluations and contract award.

x. NJ Business Registration Certificate

All New Jersey and out of State business organizations must obtain a Business Registration Certificate from the Department of the Treasury, Division of Revenue, prior to conducting business with the State of New Jersey. Proof of valid business registration must be submitted by a bidder with its bid proposal. Failure to submit such valid business registration with a bid will render the bid materially non-responsive.

xi. Public Law 2005, Chapter 51, (Executive Order 134)

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Executive Order documentation will be sent to potential awardees with Intent to Award Letter. Completed forms will be reviewed by the Department of Treasury and no contract can be awarded until that review is completed.

- xii. Public Law 2005, Chapter 92 (N.J.S.A. 52:34-13.2), (Executive Order 129)

Executive Order documentation will be sent to potential awardees prior to award.

- xiii. Public Law 2005, Chapter 271

Vender Certification and Political Contribution Disclosure form will be received by the Contract Manager ten days prior to entering into a contract over \$17,500 in value.

- xiv. Executive Order 189 (EO 189)

Vendor shall make the representations set forth in paragraph 3 of EO 189 prior to the award of any contract.

- c. Public Works Contractors Certification

If required, must be presented with proposal.

- d. Retainage

If retainage is required on the Contract, the NJMC will retain the stated percentage or retainage from each invoice. Payment of retainage will be authorized after satisfactory completion and submission of all services, deliverables or work products by the Contractor and acceptance by the NJMC of all services, deliverables or work products required by the Contract.

- e. Bidders' Conference/Site Inspection

When the RFP stipulates a mandatory bidders' conference or site inspection, bidders must attend at the specified place, time and date or their bids will be automatically rejected.

- f. Bid Errors

If a bidder discovers an error after submitting their bid, but prior to bid opening, the bidder may request that the bid be withdrawn. This request must be submitted in writing to the NJMC Contract Manager, as noted in the RFP and signed by an officer or authorized representative of the firm. If the request is allowed, the

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bidder may submit a revised bid as long as it is received prior to the date and time of bid opening.

No alterations or corrections are permitted after the bids are opened. If an error is discovered after the bid opening but before contract award, the bidder may request that their bid be withdrawn. An officer or authorized representative of the firm to the NJMC's Contract Manager noted in the RFP must submit this request in writing. The decision to permit withdrawal of the bid will be at the discretion of the Executive Director.

The Executive Director may, under extraordinary circumstances, allow for a bid to be withdrawn after contract award. In these cases, the vendor requesting withdrawal will be liable for any administrative expenses incurred as a result of contract cancellation and subsequent re-award.

g. Late Submissions

Any bids received after the date and time stipulated in the RFP will not be included in the evaluation process and will be automatically rejected. No exceptions are permitted to this requirement.

7. EVALUATION

a. Opening

Bid openings are held on the date and time and at the location specified in the RFP. The NJMC's Contract Unit representative will conduct the bid opening and at least one (1) other NJMC representatives will be present when the envelopes are opened. All bids submitted within the time requirements will be opened simultaneously and the bidder's name, and the amount of bid, will be read out loud. Bid documents are considered public information, with the exception of personal and financial information, pursuant to the Open Public Records Act, N.J.S.A. 47:1 A-1 et seq. After the opening, the bids are available for review upon request.

b. Negotiation and Best and Final Offer (BAFO)

Following the opening of Bid proposals, the NJMC reserves the right, pursuant to N.J.S.A. 52:34-12(f), to negotiate with bidders, after bid opening, the final terms and conditions of any procurement, including price, the technical services offered, the terms and conditions and/or the price of a proposed contract award with any bidder. In addition, the NJMC reserves the right to seek a Best and Final Offer (BAFO) from one or more bidders. NJMC shall not engage in negotiation of a Best and Final Offer unless it has reserved its right to do so in the Bid Document. In response to the NJMC's request to negotiate the bidder must continue to satisfy all mandatory RFP requirements but may improve upon original technical proposal in any revised technical proposal. However, any revised technical proposal that

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does not continue to satisfy all mandatory requirements will be rejected as non-responsive and the original technical proposal will be used for any further evaluation purposes, in accordance with the following procedures:

The NJMC will conduct an initial review and determine whether and with which bidder(s) it will negotiate, and will communicate its request to each such bidder. In response, the bidder will submit any required revisions to its proposal.

In response to the NJMC's request for a BAFO, the bidder may submit a revised price proposal that is equal to or lower in price than its original submission but must continue to satisfy all mandatory requirements.

After receipt of the results of the negotiation and/or the BAFO(s), the Evaluation committee will complete its evaluation and recommend to the Director for award that responsible bidder(s) whose bid proposal, conforming to this RFP, is most advantageous to the NJMC, price and other factors considered.

All contact, records of initial evaluations, any correspondence with bidders related to any requests for negotiation or BAFO, any revised technical and/or price proposals the NJMC's evaluation and the Award Recommendation, shall not be publicly accessible until after a Notice of Intent to Award Contract is issued.

c. Evaluation

1. Bids are evaluated in a consistent and fair manner. The NJMC will select with reasonable promptness the responsible bidder whose bid, conforming to the bid requirements or specifications will be most advantageous to the NJMC, price and other factors considered.
2. The basis of all awards will be documented.
3. In cases of a tie bid, such factors as past performance records, delivery terms, whether the bidders are New Jersey-based, and convenience of the bidder's facilities will be considered to resolve the tie.

d. Automatic Rejection

1. Failure to submit the bid on or before the time and date, and at the place specified in the RFP document;
2. Failure to submit the bid in ink (pencil is unacceptable);
3. Failure to sign documents in ink where indicated;

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4. Failure to initial price and date alterations in ink;
5. Failure to submit a sealed bid when required. Telephone, telefacsimile, or telegraph bids will not be accepted;
6. Failure to provide bid security when required and/or in the amount specified;
7. Failure to attend a mandatory bidders' conference or site inspection.

8. CONTRACT AWARDS

a. Notice of Intent to Award Contract

Following evaluation of the bids, the selected bidder will receive a Notice of Intent to Award Letter.

b. Campaign Contributions

On March 22, 2005, Acting Governor Richard J. Codey signed P.L. 2005, c51: N.J.S.A. 19:44A-20.13 et sig. which, among other things, imposes new restrictions on the ability of State departments, agencies and authorities to enter into agreements for sale of property exceeding \$17,500 in amount to vendors who make certain political contributions on and after October 15, 2004. The purpose of imposing these restrictions is to ensure that the public can have confidence that the selection of State contractors is based on merit and not on the political contributions made by such contractors. This legislation also requires the disclosure of all contributions to any political organization organized under 26 U.S.C. § 527 that also meets the definition of a "continuing political committee" within the meaning of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7. Specifically, the Order bans the award of a contract, for all contracts awarded on and after October 15, 2004, to a business entity that has solicited or made any contribution of money or pledge of a contribution, including in-kind contributions.

Public Law 2005, Chapter 92 (N.J.S.A 52:34-13.2) and Executive Order 129
On May 5, 2005, Acting Governor Richard J. Codey signed public law 2005, Chapter 92 (Senate Bill No. S494). P.L. 2005, c. 92 requires that State contracts primarily for the performance of services must include provisions specifying that all services performed under the contract or performed under any subcontract awarded under the contract must be performed within the United States. This requirement applies unless the Director certifies that the service cannot be provided by a contractor or subcontractor within the United States and the certification is approved by the Treasurer, or the Director certifies that inclusion of this provision would violate the terms, conditions or limitations of any grant, funding or financial assistance from the Federal government.

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Public Law 2005, chapter 271 ("P.L.2005, c.271"), effective January 5, 2006, which, among other things, requires that not later than 10 days before entering into any contract for an anticipated amount greater than \$17,500, except for a contract that is required by law to be publicly advertised for bids, a State agency such as the New Jersey Meadowlands Commission shall require any business entity (as defined in section 2c of P.L.2005, c.271) bidding on or negotiating for the contract to submit along with its bid or price quote a list of political contributions, as set forth in section 2a of P.L.2005, c.271, that are reportable by the recipient thereof pursuant to P.L.1973, c.83 (N.J.S.A. 19:44A-1 et seq.) and that were made by the business entity during the preceding 12 month period, along with the date, amount and the recipient of each such contribution. Pursuant to section 2a of P.L.2005, c.271, such a business entity is required to disclose contributions made to "any State, county, or municipal committee of a political party, legislative leadership committee, candidate committee of a candidate for, or holder of, a State elective office, or any continuing political committee." and the name of the recipient of each contribution." Section 3a of P.L.2005, c.271 requires that any business entity that makes a contribution of money or other thing of value or pledges to make a contribution of any kind to a candidate for, or the holder of, any public office with ultimate responsibility for the awarding of public contracts, or to a political party committee, legislative leadership committee, political committee or continuing political committee, and that has received \$50,000 or more in the aggregate in any calendar year through agreements or contracts with a public entity, file an annual disclosure statement with the New Jersey Election Law Enforcement Commission setting forth all such contributions made by the business entity during the 12 months prior to the reporting deadline.

c. Notice of Award

Following receipt of the signed Intent to Award Contract letter and the approved EO 134 documents from the State Treasurer the selected bidder will then receive a Notice of Award letter. The Notice may indicate certain contingency requirements that must be satisfied within the designated time frame. Failure to comply with all provisions of the Notice of Award letter may disqualify that bidder, and the award may be directed to the next qualified bidder. Unsuccessful bidders will be notified in writing.

d. Protests of Contract Award

Any bidder convinced that there are justifiable grounds to dispute an award must do so in writing within three (3) working days of receipt of written notifications that the bid has not been accepted or that an award was made to another bidder. Written notifications with supporting facts and arguments must be addressed to the NJMC Contract Manager. The Executive Director will review the protest(s) and make a determination of the validity of the claim within (10) days after receipt of written notification that his bid has not been accepted or that an award of contract has been made. The Executive Director may, in his/her sole discretion, hold a fact

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finding hearing in a form established by the Executive Director to gather information that he/she deems appropriate to assist in issuing a final Administrative determination. In the public interest, the Executive Director may shorten the 10-day protest period, but shall provide at least 48 hours for Bidders to respond to a proposed award. In case of emergency, stated in the record, the Executive Director may waive the appeal period. The Executive Director's determination on any challenge shall be in writing and constitute the final agency's determination. Any appeal of the Executive Director's decision shall be to the Appellate Division.

e. Performance Security

There are circumstances where the NJMC believes a security is needed to guarantee that the contractor will perform in accordance with all contract requirements. The amount of the performance security (stipulated in the RFP) is a percentage of the value of the contract and can take one of three forms:

1. A performance bond issued by an insurance or security company authorized to do business in New Jersey; OR
2. A certified or cashier's check drawn to the Agency, OR
3. An irrevocable letter of credit drawn to the Agency as beneficiary issued by a federally insured financial institution.

When a performance security is required, a Contract Performance Bond Form must be completed and returned by the awarded contractor's bonding company within ten (10) days. It is advised that firms consult with their insurance agents or authorized bonding companies prior to submitting bids requiring performance bonds.

Failure to submit the required security will result in nonpayment of goods or services delivered to the Agency and/or cancellation of the contract.

f. Compliance With Law

Bidders must comply with all applicable Local, State, and Federal laws, rules and regulations. When applicable, and are required to adhere to the New Jersey Prevailing Wage Act (N.J.S.A. 34:11-56.26 et seq.), provide proof of their New Jersey Business Registration with the Department of the Treasury, (P.L. 2004, c57), Executive Order 134, P.L., 2005, c51, Public Law 2005, Chapter 92 (N.J.S.A. 52:34-13.2), Public Law 2005, chapter 271 ("P.L.2005, c.271"), and Executive Order 129.

g. Commodity/Service Delivery and Quality Standards

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Contractors will deliver the ordered goods or perform the requested services exactly as specified in the contract or purchase order and within the specified time frame. Defective or substandard products, unauthorized or unacceptable substitutes, inadequate service, late delivery, or incomplete order fulfillment is not acceptable. The contractor will be permitted ten (10) days to rectify the problem or risk being found in default. In the event of default, the contractor may be held liable for any losses suffered by the Agency in fulfilling the contract through the other suppliers. The contractor may be debarred or suspended from the Bidders' List, and open contracts or purchase orders may be canceled.

9. GRATUITIES TO NJMC EMPLOYEES

No fees, compensation, commissions, gifts, favors, or entertainment or any kind may be offered to, or accepted by, any NJMC employee connected directly or indirectly with the purchase of acquisitions of commodities or services.

The consequences of violation of the statute can be severe. The contractor may be debarred or suspended from the Bidders' List, and open contracts or purchase orders may be canceled. The employee may be disciplined and/or dismissed.

10. REQUEST FOR WAIVERS OF ADVERTISING

a. Policy

All products and services are to be purchased through the formal advertised bidding process. Waivers of formal advertising are an exception to this policy, and are expressly limited by statutory design. The Executive Director must authorize all waivers, unless the amount of the contract is \$29,000 or more, in which case the Board of Commissioners must authorize the waiver. No services are to be procured by NJMC without formal, advertised bidding unless:

1. Prior written approval is received, Waiver of Advertising, and the Executive Director approves. The NJMC is performed in accordance with current procedures providing for delegated purchasing authority or term contract purchasing.
2. All requests to waive formal advertising must be submitted by the Request for Waiver of Advertising to NJMC and it must be completed in its entirety, supplemented by pertinent documentation required by the form, and accompanied by the appropriate documentation and back-up.
3. For public exigency requests, where the life, safety or health of individuals must be maintained through the immediate performance of services or delivery of products verbal authorization must be obtained from either the Executive Director; his/her designees or

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the Chief Counsel prior to the actual purchase.

4. If the NJMC has been granted approval by the Executive Director his/her designees or the Chief Counsel to obtain informal competition, informal competitive bidding must be obtained for all waivers of advertising purchases. Should the lowest bidder be bypassed, justification must be completely and fully documented.

b. Waiver Explanations

The agency must provide a clear, concise summary of the nature and purpose of the waiver. The summary should include a statement of the scope of the service to be performed or the nature of the product to be purchased and what the agency would like to accomplish.

c. Competition

1. NJMC is required to seek as much competition as reasonable and practical under the circumstances for each waiver requested. Please commence explanation.
2. If the required product or service is available from only one source of supply, this should also be fully documented.
3. The results of all inquiries, including proposals, price quotations, denials, etc., must be attached to the waiver request form.

d. Vendor Proposals

A Vendor proposal must be attached and signed by the vendor.

e. Confirming Waivers

Confirming waivers are considered in cases where there is a critical and immediate need to provide a service or product. Authorization must be obtained from the Executive Director, his/her designees or the Assistant Chief Fiscal Officer. Once authorization is granted, the waiver request form accompanied with the required documentation is to be submitted within three (3) working days of the approval. Approval will be granted only on the condition that the requesting agency has the necessary appropriations to defray the costs.

II. APPRAISALS AND CAPITAL NEEDS ASSESSMENT

The Procurement policy does not cover appraisals. Best Business Practices and proper sign offs by division director should continue to be followed.

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12. DOCUMENT REVISIONS

The NJMC Procurement Policy and Procedures will be updated every year in January to incorporate recent Executive Orders, and New Jersey State Law requirements affecting the NJMC's procurement policy. At this time, the Procurement Unit, together with the NJMC Directors may choose to update the Procurement Policy, to be approved by the Executive Director.

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO
ALLOCATE UP TO \$30,000 TO RUTGERS UNIVERSITY FOR AN
OYSTER HABITAT DEVELOPMENT FEASIBILITY STUDY
IN THE HACKENSACK RIVER**

WHEREAS, the presence of oysters in a river system can have tremendous environmental impacts; and

WHEREAS, oysters are capable of filtering as much as 10 quarts of water an hour and therefore reducing water turbidity, which increases light transmission through the water column, creating a habitat supportive of submerged sea grass growth while improving overall water quality; and

WHEREAS, the presence of oysters in a river system creates oyster reefs, which reduce water flow velocities, while providing organic material that serves as a food source for reef inhabitants, a habitat for organisms and transitory fish, and as forage habitat for birds and mammals; and

WHEREAS, in 1997 the NY/NJ Baykeeper and Hackensack Riverkeeper conducted a study in only select locations which determined that oysters were capable of surviving in the Hackensack River; and

WHEREAS, it would be advantageous for the New Jersey Meadowlands Commission work with Rutgers University, the NY/NJ Baykeeper, and Hackensack Riverkeeper to conduct a study to determine the feasibility of hosting an oyster habitat in the Hackensack River.

NOW, THEREFORE, BE IT RESOLVED, that the New Jersey Meadowlands Commission authorizes the Executive Director to enter into a contract not to exceed \$30,000 with Rutgers University to conduct an oyster habitat development feasibility study in the Hackensack River; and

LET IT FURTHER BE RESOLVED, that Rutgers University work in conjunction with the NY/NJ Baykeeper and Hackensack Riverkeeper for the purposes of this study.

The foregoing was adopted by Commission vote.

Susan Bass Levin
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting on October 13, 2006.

Robert R. Ceberio
Secretary

Resolution No. 06-87

Memorandum

New Jersey Meadowlands Commission

To: NJMC Commissioners

From: Robert R. Ceberio

Date: October 13, 2006

Subject: Oyster Habitat Development Feasibility Study

The attached resolution would allocate up to \$30,000 to Rutgers University to conduct an Oyster Habitat Development Feasibility Study in the Hackensack River. It is the opinion of MERI, Rutgers University, the NY/NJ Baykeeper and Hackensack Riverkeeper, that the development of an oyster habitat in the Hackensack River will positively impact the eco-system in the region.

Oyster building of "reefs" reduces water flow velocities, while providing organic material that serves as a food source for reef inhabitants. In addition to providing habitat for benthic organisms and transitory fish, oyster reefs serve as forage habitat for birds and mammals. It is estimated that the presence of oyster reef habitat can increase biomass and productivity of benthic invertebrate fish prey species by 20-fold. This increased prey biomass can support an increase in fish and large crustacean biomass of up to 50 kg per square meter of oyster reef habitat.

In addition, an adult oyster is capable of filtering up to 10 quarts of water per hour through its system. This natural filtration process helps to increase water transparency, which increases light transmission through the water column, creating a habitat supportive of submerged sea grass growth, while improving overall water quality.

A study done by the NY/NJ Baykeeper, with participation by the Hackensack Riverkeeper, in 1997 found that oysters in nets placed in the Hackensack River were capable of surviving. The NJMC 2005 Fish Survey also captured living oysters in the Hackensack River. These results indicate that the potential exists to create viable oyster reef habitat for the Hackensack River estuary. The Oyster Habitat Feasibility Study will build upon the data collected in 1997, and utilize the experience of the NY/NJ Baykeeper and Hackensack Riverkeeper to determine whether the Hackensack River can support an oyster habitat.

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO
ALLOCATE UP TO \$1 MILLION FOR MUNICIPAL SHARED SERVICES
AND WORK WITH THE DEPARTMENT OF COMMUNITY AFFAIRS TO
CONDUCT A STUDY AND DEVELOP AN ACTION PLAN TO INCREASE
THE SHARING OF SERVICES AND EQUIPMENT BETWEEN THE
MEADOWLANDS MUNICIPALITIES AND SCHOOL DISTRICTS**

WHEREAS, Governor Jon Corzine has expressed the need for municipalities in New Jersey to more effectively share services and equipment to make the most efficient use of taxpayer dollars; and

WHEREAS, Commissioner Susan Bass Levin and the New Jersey Department of Community Affairs have worked to encourage local governments to leverage State financial resources to find ways to share resources with each other to lower the cost and improve the efficiency of providing government services; and

WHEREAS, the New Jersey Meadowlands Commission (NJMC) has provided the Meadowlands Municipalities with Municipal Assistance Program grants, and access to the NJMC Municipal Equipment Pool to help stabilize or lower municipal property taxes in the Meadowlands District region; and

NOW, THEREFORE, BE IT RESOLVED, that the New Jersey Meadowlands Commission authorizes the Executive Director to work with the Department of Community Affairs to conduct a study of the Meadowlands Municipalities and draft an action plan to increase the sharing of services and equipment between them.

BE IT FURTHER RESOLVED, that the New Jersey Meadowlands Commission shall appropriate \$1million from the MAGNET program for the purpose of providing seed money for the implementation of shared services and equipment between the fourteen Meadowlands Municipalities. The guidelines for the distribution of these funds shall be presented to the Commission for approval upon the completion of the study and action plan by NJMC staff.

BE IT FURTHER RESOLVED, that the New Jersey Meadowlands Commission shall re-designate funds from the Regional Equipment Cooperative line in the MAGNET Program and the Regional Bank Start-Up Fund for this purpose.

The foregoing was adopted by Commission vote.

Susan Bass Levin
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting on October 13, 2006.

Robert R. Ceberio
Secretary

Resolution 06-88

Memorandum

New Jersey Meadowlands Commission

To: NJMC Commissioners

From: Robert R. Ceberio Date: October 13, 2006

Subject: Shared Municipal Services

This Resolution would authorize the Executive Director to work with the Department of Community Affairs to conduct a study of the Meadowlands Municipalities and draft an action plan to increase the sharing of services and equipment between them. Governor Jon Corzine and Commissioner Susan Bass Levin stated the need for increased sharing and cooperation of local government services throughout the state. This increased sharing and cooperation makes more efficient use of property tax dollars, and thus lessens the property tax burden on the residents of the state.

This action plan analyzes the current services and equipment used by the local governments in the Meadowlands District, and will make a series of recommendations on how the local governments can share their equipment and services. Included in this analysis will be a financial impact assessment to determine the initial costs and future savings of implementing these recommendations. Once completed, this action plan will be presented to the Commission, and then will be subsequently presented to the Hackensack Meadowlands Municipal Committee. The NJMC will work with the HMMC to fully implement the recommendations outlined in the action plan.

In addition, this resolution authorizes the Executive Director to allocate \$1 million from the MAGNET program for the purpose of providing seed money for the implementation of shared services and equipment between the fourteen Meadowlands Municipalities. The NJMC staff will draft the guidelines for the distribution of these funds, to be approved by the Commission, upon completion of the action plan prepared by NJMC staff. The Executive Director will redesignate funds from the Regional Equipment Cooperative line in the MAGNET Program and the Regional Bank Start-Up Fund to make this funding possible.

**RESOLUTION TO ADOPT A
UNIFORM CODE OF ETHICS**

WHEREAS, the State Ethics Commission has developed and adopted a Uniform Code of Ethics; and

WHEREAS, the Uniform Code of Ethics governs and guides the conduct of State officers and employees and special State officers and employees in State agencies in the Executive branch of State Government; and

WHEREAS, pursuant to *N.J.S.A. 52:13D-23* all State agencies are required to adopt the Uniform Code of Ethics.

NOW, THEREFORE, BE IT RESOLVED that the New Jersey Meadowlands Commission adopt the attached Uniform Code of Ethics effective immediately.

The foregoing Resolution was adopted by Commission vote.

Susan Bass Levin
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at their meeting of October 13, 2006.

Robert R. Ceberio
Secretary

Resolution No. 06-89

Memorandum

New Jersey Meadowlands Commission

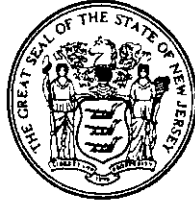
To: NJMC Commissioners and Robert Ceberio, Executive Director

From: Beverly J. Schmidt Date: October 13, 2006

Subject: Uniform Code of Ethics

Pursuant to N.J.S.A. 52:13D-23, the New Jersey State Ethics Commission has developed and adopted a Uniform Ethics Code which governs and guides the conduct of State officers and employees and special State officers and employees.

On September 11, 2006, this Code became the primary Ethics Code for all State agencies.



State of New Jersey

STATE ETHICS COMMISSION

PO Box 082

Trenton, NJ 08625-0082

www.nj.gov/lps/ethics

Jon S. Corzine
Governor

Paula A. Franzese, Esq.
Chair

Rita L. Strmensky, Esq.
Executive Director

Tel: (609) 292-1892

(888) 223-1355 in NJ

Fax: (609) 633-9252

Email: ethics@ethics.state.nj.us

UNIFORM ETHICS CODE

FOREWORD

Pursuant to *N.J.S.A. 52:13D-23*, the State Ethics Commission has adopted this Uniform Ethics Code to govern and guide the conduct of State officers and employees and special State officers and employees in State agencies in the Executive branch of State Government.

The Uniform Ethics Code shall be the primary code of ethics for State agencies. It shall be supplemented by an agency code of ethics formulated with respect to the particular needs and problems of the agency to which said code is to apply. Each agency, in consultation with the Attorney General's Office, must review its enabling legislation to ensure that any agency-specific conflicts provisions are included in any supplemental agency code. An agency code must be approved by the Commission.

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I. DEFINITIONS

As used in this Uniform Ethics Code, and unless a different meaning clearly appears from the context, the following terms shall have the following meanings.

“Commission” means the State Ethics Commission, established in but not of the Department of Law and Public Safety pursuant to *N.J.S.A. 52:13D-21*.

“Conflicts Law” means the New Jersey Conflicts of Interest Law, *N.J.S.A. 52:13D-12 et seq.*

“Ethics Liaison Officer” means the individual(s) designated by the agency head to assist the State Ethics Commission in implementing and enforcing the Conflicts Law and related ethics codes.

“Event” means a meeting, conference, seminar, speaking engagement, symposium, training course, ground-breaking, ribbon-cutting, meal, open house, cocktail party, fundraiser, holiday party, social function, or similar event that takes place away from the State official’s work location, is sponsored or co-sponsored by a supplier or a non-State government source and the invitation for which is extended to the State official because of his or her official position.

“Gift” means any fee, commission, service, compensation, gratuity, or other thing of value of any kind. If an item has more than a nominal monetary value, it will be characterized as a gift. A gift includes admission to an event for which a member of the general public would be charged, a meal, transportation, or offer of employment.

“Head of a State agency” means, in the case of the Executive branch of government, except with respect to interstate agencies, the department head or, if the agency is not assigned to a department, the Governor.

“Immediate Family Member” means an individual’s spouse, child, parent or sibling residing in the same household. *N.J.S.A. 52:13D-13(i)*.

“Interest” means (1) the ownership or control of more than 10% of the profits or assets of a firm, association, or partnership, or more than 10% of the stock in a corporation for profit other than a professional service corporation organized under the “Professional Service Corporation Act,” P.L. 1969, c. 232 (C. 14A:17-1 et seq.); or (2) the ownership or control of more than 1% of the profits of a firm, association, or partnership, or more than 1% of the stock in any corporation, which is the holder of, or an applicant for, a casino license or in any holding or intermediary company with respect thereto, as defined by the “Casino Control Act,” P.L. 1977, c. 110 (C. 5:12-1 et seq.). The provisions of this act governing the conduct of individuals are applicable to shareholders, associates or professional employees of a professional service corporation regardless of the extent or amount of their shareholder interest in such a corporation.

“Interested party” means: 1. Any person, or employee, representative or agent thereof, who is or may reasonably be anticipated to be subject to the regulatory, licensing or supervisory authority

of the State official's agency; 2. Any supplier, or employee, representative or agent thereof; 3. Any organization that advocates or represents the positions of its members to the State official's agency; or 4. Any organization a majority of whose members are as described in paragraphs 1 through 3 above.

"Person" means any natural person, association or corporation.

"Published work" means any tangible medium of expression, including, but not limited to, literary, pictorial, graphic and sculptural matter; sound recordings; and software. *N.J.A.C.* 19:61-6.2.

"Relative," as used in section XIII, means an individual's spouse, and the individual's or his/her spouse's parent, child, sibling, aunt, uncle, niece, nephew, grandparent, grandchild, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half-brother, or half-sister, whether the relative is related to the individual or the individual's spouse by blood, marriage or adoption.

"Special State officer or employee" means (1) any person holding an office or employment in a State agency, excluding an interstate agency, for which office or employment no compensation is authorized or provided by law, or no compensation other than a sum in reimbursement of expenses, whether payable per diem or per annum, is authorized or provided by law; (2) any person, not a member of the Legislature, holding a part-time elective or appointive office or employment in a State agency, excluding an interstate agency, or (3) any person appointed as a New Jersey member to an interstate agency the duties of which membership are not full-time.

"State agency" means any of the principal departments in the Executive branch of the State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department, and, to the extent consistent with law, any interstate agency to which New Jersey is a party and any independent State authority, commission, instrumentality or agency. A county or municipality shall not be deemed an agency or instrumentality of the State.

"State officer or employee" means any person, other than a special State officer or employee (1) holding an office or employment in a State agency, excluding an interstate agency, other than a member of the Legislature or (2) appointed as a New Jersey member to an interstate agency.

"Supplier" means any person that is providing or is seeking to provide or may reasonably be expected to provide goods and/or services to the State officer or employee's or special State officer or employee's agency, including, but not limited to, consultants, vendors and lessors.

"Unclassified office or position" means any office or position in the unclassified service of the civil service of the Executive branch of State government.

II. GENERAL STANDARDS OF CONDUCT

It is essential that the conduct of public officials and employees shall hold the respect and confidence of the people. Public officials must, therefore, avoid conduct that is in violation of their public trust or that creates a justifiable impression among the public that such trust is being

violated. Accordingly, State officers and employees and special State officers and employees shall conform their conduct to the following standards.

1. No State officer or employee or special State officer or employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, which is in substantial conflict with the proper discharge of his/her duties in the public interest.
2. No State officer or employee or special State officer or employee should engage in any particular business, profession, trade or occupation which is subject to licensing or regulation by a specific agency of State Government without promptly filing notice of such activity with the Commission.
3. No State officer or employee or special State officer or employee should act in his/her official capacity in any matter wherein he/she has a direct or indirect personal financial interest that might reasonably be expected to impair his/her objectivity or independence of judgment.
4. No State officer or employee or special State officer or employee should knowingly act in any way that might reasonably be expected to create an impression or suspicion among the public having knowledge of his/her acts that he/she may be engaged in conduct violative of his trust as a State officer or employee or special State officer or employee.

Misuse of Official Position or Information

5. No State officer or employee or special State officer or employee should use or attempt to use his/her official position to secure unwarranted privileges or advantage for him/herself or others.
6. No State officer or employee or special State officer or employee, shall willfully disclose to any person, whether or not for pecuniary gain, any information not generally available to members of the public which he/she receives or acquires in the course of and by reason of his/her official duties. No State officer or employee or special State officer or employee shall use for the purpose of pecuniary gain, whether directly or indirectly, any information not generally available to members of the public which he/she receives or acquires in the course of and by reason of his/her official duties.

Representation/Appearance Before a State Agency

7. No State officer or employee, nor any partnership, firm or corporation in which he/she has an interest, nor any partner, officer or employee of any such partnership, firm or corporation, shall represent, appear for, or negotiate on behalf of, or agree to represent, appear for, or negotiate on behalf of, any person or party other than the State in connection with any cause, proceeding, application or other matter pending before any State agency. Nothing contained herein shall be deemed to prohibit any such partnership, firm or corporation from appearing on its own behalf.

8. No special State officer or employee, nor any partnership, firm or corporation in which he/she has an interest, nor any partner, officer or employee of any such partnership, firm or corporation, shall represent, appear for, or negotiate on behalf of, or agree to represent, appear for or negotiate on behalf of, any person or party other than the State in connection with any cause, proceeding, application or other matter pending before the particular office, bureau, board, council, commission, authority, agency, fund or system in which such special State officer or employee holds office or employment.

Nothing contained in this section shall be deemed to prohibit any State officer or employee or special State officer or employee from representing, appearing for or negotiating on behalf of, or agreeing to represent, appear for, or negotiate on behalf of, any person or party other than the State in connection with any proceeding:

- i. Pending before any court of record of this State,
- ii. In regard to a claim for compensation arising under chapter 15 of Title 34 of the Revised Statutes (Workers' Compensation),
- iii. In connection with the determination or review of transfer inheritance or estate taxes,
- iv. In connection with the filing of corporate or other documents in the office of the Secretary of State,
- v. Before the Division on Civil Rights or any successor thereof,
- vi. Before the New Jersey State Board of Mediation or any successor thereof,
- vii. Before the New Jersey Public Employment Relations Commission or any successor thereof,
- viii. Before the Unsatisfied Claim and Judgment Fund Board or any successor thereof solely for the purpose of filing a notice of intention pursuant to P.L.1952, c.174, s.5 (C.39:6-65), or
- ix. Before any State agency on behalf of a county, municipality or school district, or any authority, agency or commission of any thereof except where the State is an adverse party in the proceeding and provided he is not holding any office or employment in the State agency in which any such proceeding is pending.

III. ACCEPTANCE OF GIFTS

No State officer or employee or special State officer or employee shall accept any gift, favor, service or other thing of value related in any way to the State official's public duties.

Upon the recommendation of the Special Counsel for Ethics Review and Compliance, the Commission has adopted a zero tolerance policy for acceptance of gifts. (See *Report of the Special Ethics Counsel to the Governor of the State of New Jersey*, dated March 14, 2005.) Accordingly, any gift that is offered to or received by a State officer or employee or special State officer or employee or, his/her spouse, immediate family member, partner or associate shall be immediately reported to the agency's Ethics Liaison Officer ("ELO"). Unless the State officer or employee or special State officer or employee is permitted to receive the gift or thing of value in accordance with the Commission's rules on attendance at events (see section IV), no State officer or employee or special State officer or employee or, his/her spouse, immediate family

member, partner or associate shall accept, either directly or indirectly, any gift, favor, service or other thing of value related in any way to the State official's public duties.

The exceptions to the zero tolerance rules for acceptance of gifts are set forth below.

1. Unsolicited gifts or benefits of trivial or nominal value, such as complimentary articles offered to the public in general, and gifts received as a result of mass advertising mailings to the general business public may be retained by the recipient or the recipient's department for general use if such use does not create an impression of a conflict of interest or a violation of the public trust. The receipt of such complimentary articles is not required to be reported to the ELO.
2. A State officer or employee or special State officer or employee may receive a gift, favor, service or other thing of value from a vendor under the same terms and conditions as are offered or made available to members of the general public.
3. A State employee is permitted to give or receive a gift from a co-worker, a supervisor or a subordinate. The gift should not be excessive or inappropriate for a business environment. Such gift shall not be reported to the ELO.
4. In accordance with *N.J.S.A. 52:13D-24*, gift provisions do not apply to the acceptance of contributions to the campaign of an announced candidate for elective public office.

The procedures for reporting receipt of a gift are set forth in Appendix A.

IV. ATTENDANCE AT EVENTS

Attendance at an event that is sponsored or co-sponsored by an entity other than the State must be approved by the agency's ELO.

A State employee must complete the form identified as "Request For Approval For Attendance At Event," prior to attendance.

A State employee shall not attend an event in his or her official capacity unless a legitimate State purpose will be served.

Costs associated with attendance at an event shall be paid or reimbursed in accordance with *N.J.S.A. 52:13D-24* and *N.J.A.C. 19:61-6.1 et seq.*

A State employee is prohibited from accepting honoraria in connection with his/her attendance or participation at an event. *N.J.S.A. 52:13D-24*.

A State employee is prohibited from accepting entertainment, or reimbursement for entertainment, that is collateral to an event, such as a golf outing, tickets to a sporting event or a meal taken other than in a group setting with all attendees present.

The Commission's rules on attendance at an event and the form that must be completed prior to attendance at an event are set forth in Appendix B.

V. POLITICAL ACTIVITY

Upon giving notice to the agency ELO, a State employee may be involved in political activities unless:

1. the State employee is prohibited from such activities by State or federal statute or agency rule; or
2. the political activity conflicts with the employee's official duties.

Pursuant to *N.J.S.A.* 52:13D-14 and *N.J.S.A.* 52:13D-24, a State employee may accept a contribution to the campaign of an announced candidate for elective public office provided the contribution is not known to be given in lieu of a payment that is prohibited by the Conflicts Law. Further, a State employee is subject to the Department of Personnel's Administrative Code provisions governing political activity, *N.J.A.C.* 4A:10-1.2. Note that a State employee is not permitted to serve as a campaign treasurer on any campaign that is subject to the jurisdiction of the Election Law Enforcement Commission.

The Commission's Guidelines on Political Activities and the provisions of *N.J.A.C.* 4A:10-1.2 are set forth in Appendix C.

VI. OUTSIDE ACTIVITIES AND BUSINESS INTERESTS

No State officer or employee or special State officer or employee should undertake any employment or service, whether compensated or not, which might reasonably be expected to impair his/her objectivity and independence of judgment in the exercise of his/her official duties.

A State officer or employee's participation in any service, activity or employment that is outside his/her official State duties may be prohibited by the Conflicts Law, other State or Federal law or regulation, or the code of ethics adopted by the employee's agency. Accordingly, a State officer or employee shall obtain the approval of the ELO prior to engaging in any of the following outside activities.

1. Commencement of any business, trade, profession or other compensated employment, including the acceptance of compensation for a speech or published work;
2. Uncompensated or volunteer work for or with any entity; or
3. Holding office or title in the governing or advisory board of any entity.

Notwithstanding the requirement to disclose outside employment and activities, a State agency may exempt disclosure of specific kinds of outside employment or activities if the agency is satisfied that such activity or employment does not present a conflict of interest.

A State officer or employee is not permitted to hold employment with, hold an interest in, or represent, appear for, or negotiate on behalf of a holder of or applicant for a casino license unless the Commission grants a waiver. A waiver is granted in circumstances where it is determined by the Commission that such casino activity will not interfere with the

responsibilities of the State officer or employee and will not create a conflict of interest or the appearance of such conflict. A special State officer or employee is prohibited from holding an interest in or representing, appearing for or negotiating on behalf of a holder of or applicant for a casino license, or any holding or intermediary company with respect thereto, in connection with any matter. However, a special State officer or employee without responsibility for matters affecting casino activity may hold employment with a casino license holder or applicant and, if so employed, may hold an interest in or represent, appear for or negotiate on behalf of his/her casino employer. *N.J.S.A. 52:13D-17.2(b)*

All State officers and employees shall complete the Outside Activity Questionnaire attached to this document as Appendix D, in accordance with the procedures adopted by his/her agency. These procedures shall, at a minimum, require that each current employee complete the questionnaire and that each new employee complete the questionnaire upon commencement of employment with the agency. The procedures shall also require that a State officer or employee amend his/her Outside Activity Questionnaire whenever there is a change in the employee's outside activity or State employment. A State agency shall require disclosure of additional information regarding the outside activities of its employees as necessary to address the particular needs and problems of the agency.

The agency ELO shall review all outside activity questionnaires and determine whether the outside activity is permissible in accordance with the Conflicts Law, the Uniform Ethics Code, the agency code of ethics or any other authority. A State officer or employee may appeal an agency ELO's decision to disapprove an outside activity. Such appeal shall be submitted in writing to the Commission within 60 days of the employee's receipt of the agency's decision. The appeal shall cite the relevant section(s) of the Conflicts Law, Uniform Ethics Code, agency code of ethics or other authority which supports the position of the employee that such outside activity should be permitted.

Each State agency shall develop a Conflict of Interest questionnaire for special State officers and employees of that agency. Each State agency shall develop a process for the review and retention of both Outside Activity Questionnaires and Conflict of Interest Questionnaires.

The Commission's Guidelines Governing Outside Activities are set forth in Appendix E.

Blind Trusts

A blind trust may be used by a State officer or employee, a special State officer or employee, his/her spouse or domestic partner or dependent children to avoid conflicts situations caused by financial interests. The trust must conform to the standards set forth in the Blind Trust Guidelines, Appendix F.

VII. OFFICIAL STATIONERY

Official stationery shall be used only in connection with the State agency's official business. The limitations on use of official stationery also apply to personal stationery paid for

by an officer or employee if it is imprinted with the agency office or the title of the State officer or employee.

A State officer or employee or special State officer may not use official stationery to promote a candidate for elective office, endorse a State vendor or contractor, express a personal opinion on a matter that is not related to his/her official duties, or to promote his/her financial or other self-interest.

Exceptions: A State officer or employee or special State officer or employee may use official stationery to write a letter of recommendation for, or respond to an inquiry about, a current or former colleague or employee. These permissible uses are only acceptable so long as the use of official stationery does not create an impression that the State officer or employee is engaged in an unwarranted use of his/her position. For example, it would not be appropriate for a State employee to recommend an individual for inclusion in a program over which the State employee has supervisory or regulatory authority. In addition, there must be a reasonable connection between the officer's or employee's official duties and the use and purpose of the letter.

A State agency may not use official stationery to solicit a contribution from any interested party. Solicitation of any other entity must be reviewed and approved by the agency's ELO.

The Commission's Guidelines with respect to the use of official stationery are set forth in Appendix G.

VIII. POST-EMPLOYMENT RESTRICTIONS

Seeking Future Employment

State officers or employees who have direct and substantial contact with any interested parties must refrain from circulating resumes or in any manner seeking employment with those individuals or entities while still in State service. If an employee is solicited for potential employment by an entity with which he/she has direct and substantial contact, that solicitation must be disclosed immediately to the employee's management and to the agency's ELO. Employees who do not have direct and substantial contact with interested parties may circulate resumes and enter into discussions regarding potential employment with those individuals or entities so long as they avoid any situations that may give rise to an unwarranted advantage. All employees are cautioned that discussions, interviews, and negotiations shall not take place on State time.

Solicitation or discussion of employment with regulated entities, or their representatives, that have a specific cause, proceeding, application or other matter pending before the employee's agency is not permitted. There may be circumstances when solicitation or discussion of employment with respect to regulated entities, or their representatives, could be approved if no specific cause, proceeding, application or other matter is pending before the agency. These situations must be reviewed on a case-by-case basis before the employee proceeds with any job-seeking activities.

Lifetime Ban

At no time subsequent to the termination of his/her office or employment in any State agency may a former State officer or employee or special State officer or employee represent, appear for, negotiate on behalf of, or provide information or services not generally available to members of the public, or agree to perform any of those activities, for any party other than the State in connection with a specific cause, proceeding, application or matter with which the State officer or employee or special State officer or employee had been substantially and directly involved at any time during the course of his/her office or employment. *N.J.S.A. 52:13D-17*. This lifetime ban applies not only to the State officer or employee or special State officer or employee personally, but also to the partnership, firm or corporation under the following circumstances: (1) if the former State officer or employee or special State officer or employee is a shareholder, associate or professional employee of a firm organized as a professional service corporation or (2) if the former State officer or employee or special State officer or employee owns or controls more than 10% of the stock of a corporation or more than 10% of the profits or assets of a firm, association or partnership.

One-Year Ban – Certain State Officials

In accordance with the recommendation of the Special Counsel for Ethics Review and Compliance, a one-year ban on the activities described in this section shall apply to any head, deputy head or assistant head of any principal department, board, commission or authority, the Superintendent of State Police, the Governor's Chief of Staff, Chief of Management and Operations, Chief of Policy and Communications, Chief Counsel, Director of Communications, Policy Counselor, and any deputy or principal administrative assistant to any of the aforementioned members of the staff of the Office of the Governor.

For one year after the termination of the State office or employment of any of the individuals noted above, he/she shall not represent, appear for, or negotiate on behalf of, or agree to represent, appear for, or negotiate on behalf of any person or party other than the State with or before any officer or employee of the State agency in which he/she served. The provisions of this subsection shall not apply to any partnership, firm or corporation in which he/she has an interest or is employed, or to any partner, officer, director or employee of such partnership, firm or corporation. Nothing contained in this section shall prohibit a State agency from contracting with a former State officer or employee to act on behalf of the State.

In addition, the governor and each head of a principal department in the Executive branch are prohibited, for one year after the termination of office or employment, from registering as a "governmental affairs agent," as that term is defined in *N.J.S.A. 52:13C-20*. *N.J.S.A. 52:13C-21.4*.

Two-Year Casino Employment Restriction

N.J.S.A. 52:13D-17.2 sets forth post-employment restrictions applicable to State officers or employees subject to financial disclosure by law or executive order, and State officers or employees or special State officers or employees with responsibility for matters affecting casino activities.

Such persons are prohibited from holding, directly or indirectly, an interest in, or holding employment with, a casino licensee or applicant for a casino license for a period of two years following the termination of their State employment. In addition, such persons may not represent, appear for, or negotiate on behalf of a casino. This prohibition applies to any business entity in which the person holds an interest or is otherwise associated, including the officers or employees of such business entity. This prohibition applies to the person's immediate family members unless granted a waiver by the Commission. See Section XIV, below. *N.J.S.A. 52:13D-17.2(c)*.

Waivers

In accordance with *N.J.S.A. 52:13D-17.2*, the Commission may grant an exception from the above casino employment restrictions for a person's immediate family member or an employee who was terminated as a result of a reduction in force, (provided that the employee did not hold a policy-making management position during the five years prior to termination of employment) whenever it determines that such waiver will not create a conflict of interest or the appearance of a conflict of interest:

The Commission's Guidelines with respect to Post-Employment Restrictions are set forth in Appendix H.

IX. RECUSAL ON OFFICIAL MATTERS

A State officer or employee or special State officer or employee is required to recuse him/herself on an official matter that involves any private sector individual, association, corporation or other entity that employed or did business with the State officer or employee or special State officer or employee during the one year prior to the employee's commencement of State service.

A State officer or employee or special State officer or employee is required to recuse him/herself on an official matter if he/she had any involvement in that matter, other than on behalf of the State, prior to commencement of his/her State service.

A State officer or employee or special State officer or employee is required to recuse him/herself on an official matter if he/she has a financial or personal interest that is incompatible with the proper discharge of his/her public duties.

An incompatible personal or financial interest includes, but is not limited to, outside employment; a debtor/creditor relationship; a fiduciary relationship; a source of income; any matter pertaining to or involving a relative or cohabitant; a relationship with a person providing funds, goods or services without compensation; any matter pertaining to or involving a business associate or business investment; and a leadership role in a professional or trade organization, which interest might reasonably be expected to impair a State official's objectivity and independence of judgment in the exercise of his/her official duties or might reasonably be expected to create an impression or suspicion among the public having knowledge of his or her acts that he/she may be engaged in conduct violative of his/her trust as a State official.

Upon determining that a State official shall recuse him/herself on any matter, the State official shall execute the recusal in writing, and shall have no involvement with the subject matter of the recusal. If a State official cannot determine whether he/she should execute a letter of recusal in any matter, the State official shall contact his/her agency ELO or the Commission for guidance. A State official shall seek the advice of the State agency's counsel, agency ELO or the Commission as to the propriety of participation in a matter if any person requests that a State official recuse him/herself from that matter. Oral advice, followed up by a writing, shall be provided by the agency's counsel, the agency ELO or the Commission to avoid delay. Oral advice shall subsequently be memorialized by a writing or by inclusion in public minutes.

The Commission's regulations governing recusal, *N.J.A.C. 19:61-7.1 et seq.*, which include the required elements for a written recusal, are set forth in Appendix I.

X. CONTRACTS

With few exceptions, a State employee may not enter into a contractual agreement with the State.

An agency head, deputy head or assistant head is prohibited from engaging in any private business transactions with any employee in his/her agency.

Limitation on contracting by State officer or employee

Pursuant to *N.J.S.A. 52:13D-19*, no State officer or employee shall knowingly undertake or execute, in whole or in part, any contract, agreement, sale or purchase of the value of \$25.00 or more, made, entered into, awarded or granted by any State agency. The exceptions to this prohibition are set forth below. As used in this section, State officer or employee also includes his or her partners, any other person for the use or benefit of the State employee or on his or her account or any corporation which he/she controls or in which he/she owns or controls more than 1% of the stock.

Limitation on contracting by special State officer or employee

Pursuant to *N.J.S.A. 52:13D-19*, no special State officer or employee who has duties or responsibilities in connection with the purchase or acquisition of property or services by the State agency where he/she is employed or an officer shall knowingly undertake or execute, in whole or in part, any contract, agreement, sale or purchase of the value of \$25.00 or more, made, entered into, awarded or granted by that State agency. The exceptions to this prohibition are set forth below. As used in this paragraph, special State officer or employee also includes his/her partners, any other person for the use or benefit of the special State employee or on his/her account or any corporation which he/she controls or in which he/she owns or controls more than 1% of the stock.

The restrictions contained above shall apply to the contracts of interstate agencies to the extent consistent with law only if the contract, agreement, sale or purchase is undertaken or executed by a New Jersey member to that agency or by his/her partners or a corporation in which he/she owns or controls more than 1% of the stock.

Permissible Contracts with the State

(1) With the prior approval of the Commission, a State officer or employee or special State officer or employee is permitted to enter into the following:

(a) purchases, contracts, agreements or sales which are made or let after public notice and competitive bidding or which, in accordance with public bidding laws or regulations applicable to other State agencies, may be made, negotiated or awarded without public advertising for bids, or

(b) any contract of insurance entered into by the Director of the Division of Purchase and Property pursuant to *N.J.S.A. 52:27B-62*.

(2) A State officer or employee or a special State officer or employee or his partners or any corporation or firm in which he/she owns or controls more than 1% of the stock, assets or profits may enter into a contract or agreement with a State agency where the contract or agreement is for the development of scientific or technological discoveries or innovations in which the State agency has a property right, if the State agency has a procedure in its code of ethics for authorizing these contracts or agreements that minimizes actual conflicts of interest, and the code of ethics was approved in accordance with *N.J.S.A. 52:13D-23*, and the contract or agreement complies with that code procedure.

(3) A State officer or employee or a special State officer or employee or his/her partners or any corporation or firm in which he/she owns or controls more than 1% of the stock, assets or profits may enter into a rental agreement with a State agency which operates a facility which rents space or provides services to assist small businesses which employ 50 people or less, pursuant to the same terms and conditions as those offered to members of the public generally.

Please note that the Commission has never approved a request by a State officer or employee, or special State officer or employee, to enter into a contract with his/her own agency.

The Commission's Guidelines on Privatization, set forth in Appendix J, are applicable to a State employee's participation in an open competitive bid process for the privatization of services currently being provided by his/her agency.

XI. RETIREMENT GIFTS

A gift can be given to a State employee upon his/her retirement from State service. There are specific limits to the value of a permissible retirement gift. A State employee shall refer to Appendix K for the provisions governing retirement gifts.

XII. COMPENSATION FOR PUBLISHED WORKS

A State officer or employee or special State officer or employee may not solicit, receive, or agree to receive, compensation from sources other than the State for published work(s) created as part of his/her official duties on State time and/or using State resources.

However, a State officer or employee or special State officer or employee, other than a "designated State officer," (the Governor, cabinet-level officers and other principal administrative officers of the State) may, in connection with any service, advice, assistance, appearance, speech or other matter related to his/her official duties, receive or agree to receive, whether directly or indirectly, from sources other than the State, reasonable fees for published works on matters within his/her official duties not created on State time and/or using State resources.

In addition, a State officer or employee or special State officer or employee may accept compensation from sources other than the State for published work(s) on matters unrelated to his/her official duties created on his/her own time and with non-State resources.

Before agreeing to accept or accepting any compensation from a source other than the State for any published work, a State officer or employee or special State officer or employee must secure his/her State agency's approval to do so.

In determining whether to grant such approval, the State agency shall consider, among other things, whether the compensation is offered by an interested party, and whether the published work uses or discloses information not generally available to the public. The determination shall be consistent with applicable law and agency policy.

No State officer or employee or special State officer or employee may use his/her official title in soliciting compensation for a published work.

The Commission's Guidelines with respect to Published Works are set forth in Appendix L.

XIII. FAMILY MEMBERS - CONFLICTS OF INTEREST

1. No relative of the Governor may be employed in any unclassified office or position within the State.

2. No relative of a commissioner or department head may be employed in any unclassified office or position within the department over which the department head exercises authority.

3. A relative of an assistant or deputy department head may be employed in an unclassified office or position within the department in which the assistant or deputy serves, provided that he/she is not assigned to a position over which the assistant or deputy department head exercises authority.

4. A relative of a head or assistant head of a division within a department may be employed in an unclassified office or position within the department in which the division head or assistant division head serves, provided that he/she is not assigned to a position over which the assistant or deputy department head exercises authority.

5. A relative of an appointed member of a governing or advisory body of an independent authority, board, commission, agency or instrumentality of the State may not be employed in any office or position in that entity.

6. A relative of an appointed New Jersey member of a governing body of a bi-state or multi-state agency may not be employed in an office or position in that bi-state or multi-state agency, unless otherwise permitted by law.

7. No State officer or employee or special State officer or employee may supervise his/her relative, or exercise any authority with regard to personnel actions involving his/her relative

8. Each State agency shall require State officers and employees and special State officers and employees to disclose information sufficient for the agency to determine whether the employment of any individual within the agency is prohibited.

Cohabitation

The Commission has determined that the prohibition regarding personnel actions and the supervision of family members, set forth in paragraph 7 above, is applicable to non-related individuals who share the same household with the same financial interdependence that the Commission views as creating a conflict in spousal situations.

Dating Relationship

In the case of individuals involved in dating relationships, the Commission has found violations of the Conflicts Law in situations where the State employee had official involvement in a matter affecting the individual with whom he/she had a dating relationship. Accordingly, a State officer or employee or special State officer or employee shall not have any involvement in his/her official capacity in any matter that pertains to or involves an individual with whom he/she has a dating relationship.

The Commission's guidelines with respect to "Official Interactions with Family Members/Cohabitants and Dating Relationships" is attached hereto as Exhibit M.

XIV. CASINO-RELATED FAMILY MEMBER RESTRICTIONS

Concurrent Employment Restriction

An immediate family member of a State officer or employee, or of any "person," as defined at *N.J.S.A. 52:13D-17.2(a)*, may not hold directly or indirectly, an interest in, hold

employment with, or represent, appear for, or negotiate on behalf of a holder of, or applicant for, a casino license, or any holding or intermediate company with respect thereto.

However, an immediate family member of a State officer or employee or "person" may be employed by a casino in circumstances where it is determined by the Commission that such employment will not interfere with the responsibilities of the State officer or employee or "person" and will not create a conflict of interest or the appearance of such conflict. *N.J.S.A. 52:13D-17.2(b)*.

Post-Employment Restriction

An immediate family member of a "person," as defined at *N.J.S.A. 52:13D-17.2(a)*, may not hold, directly or indirectly, an interest in, hold employment with, or represent, appear for, or negotiate on behalf of, any holder of, or applicant for, a casino license in connection with any phase of casino development permitting, licensure, or any other matter related to casino activity, for a period of two years following the termination of the office or employment of such person.

However, an immediate family member of a "person" may be employed by a casino in circumstances where it is determined by the Commission that such employment will not interfere with the responsibilities of the "person" and will not create a conflict of interest or the appearance of such conflict. *N.J.S.A. 52:13D-17.2(c)(1)*.

Casino post-employment restrictions that apply to State officials defined as "persons" are noted in section VIII.

XV. REPORTING COMPLAINTS

Allegations that a State officer or employee or special State officer or employee has violated a provision of this Uniform Code, the Conflicts Law, the Commission's rules, an agency code of ethics or any other standard within the jurisdiction of the Commission should be reported to the appropriate agency ELO or the Commission staff. Allegations should contain as much detailed information as possible and, if the complainant chooses to identify him/herself, should include contact information so that the ELO or Commission staff can obtain additional information if necessary. A complainant is not required to disclose his/her identity when reporting an alleged ethics violation.

XVI. PENALTIES

The Commission is empowered to impose the following penalties in accordance with specific provisions of the Conflicts Law. Note that violations committed by a former State officer or employee or special State officer or employee may be subject to penalties so long as the Commission's investigation of same was initiated not later than two years following termination of service.

1. *N.J.S.A. 52:13D-17* provides that any person who willfully violates the general post-employment restrictions set forth in that provision is a disorderly person, and shall be subject to a fine not to exceed \$1,000 or imprisonment not to exceed six months, or both. In addition, for

violations occurring after March 15, 2006, any former State officer or employee or former special State officer or employee found by the Commission to have violated any of the provisions of this section shall be assessed a civil penalty of not less than \$500 or more than \$10,000.

2. *N.J.S.A.* 52:13D-17.2(h) provides that any person who willfully violates the casino-related post-employment restrictions set forth in Section 17.2 (c) is a disorderly person, and shall be subject to a fine not to exceed \$1,000 or imprisonment not to exceed six months, or both. In addition, for violations of Section 17.2(c) occurring after March 15, 2006, any former State officer or employee or former special State officer or employee found to have violated any of the provisions of this section shall be assessed a civil penalty of not less than \$500 or more than \$10,000.

3. *N.J.S.A.* 52:13D-21(i) provides that any current or former State officer or employee or special State officer or employee found guilty by the Commission of violating any provision of the Conflicts Law, the Uniform Ethics Code, or any agency code of ethics, shall be fined not less than \$500 nor more than \$10,000, and may be suspended from office or employment by order of the Commission for a period not to exceed one year. In addition, for violations occurring after March 15, 2006, the State Ethics Commission may also order restitution, demotion, censure or reprimand.

This subsection further provides that if the Commission finds that the conduct of the officer or employee constitutes a willful and continuous disregard of the provisions of the Conflicts Law, the Uniform Ethics Code or any agency code of ethics, it may order that person removed from office or employment and may further bar the person from holding any public office or employment in this State in any capacity whatsoever for a period not exceeding five years from the date on which the person was found guilty by the Commission.

This subsection further provides that the Commission may impose a penalty of \$50 per day of violation for failure to file an appropriate financial disclosure statement required to be submitted to the Commission by law, regulation or executive order.

(See penalty provisions set forth at *N.J.A.C.* 19:61-3.1(j) and *N.J.A.C.* 19:61-5.6(c).)

4. *N.J.S.A.* 52:13D-23(d) provides that violations of the Uniform Ethics Code or any agency code of ethics shall be cause for removal, suspension, demotion or other disciplinary action by the State officer or agency having the power of removal or discipline. With respect to a person who is in the classified civil service, the procedure leading to such removal or discipline shall be governed by the Civil Service Act, *N.J.S.A.* 11A:1-1 et seq. and the Rules of the Department of Personnel. No action for removal or discipline shall be taken under this subsection except upon the referral or with the approval of the Commission.

5. *N.J.S.A.* 52:13D-26 provides that any person who willfully induces or attempts to induce a State officer or employee or special State officer or employee to violate any of the provisions of the Conflicts Law is a disorderly person, and shall be subject to a fine not to exceed \$500 or imprisonment not to exceed 6 months, or both.

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO ENGAGE
MCMANIMON AND SCOTLAND, LLC FOR THE PURPOSE OF
PERFORMING LEGAL WORK**

WHEREAS, on May 18, 2004, McManimon & Scotland, LLC was authorized by the New Jersey Meadowlands Commission (NJMC) to serve as special counsel on the EnCap Golf Redevelopment Agreement (Agreement); and

WHEREAS, as a result of the nature, scope and extent of the legal work related to the Agreement and the need for counsel in the areas of complex land acquisitions, litigation and transactional work, staff requires the assistance of special counsel; and

WHEREAS, the Office of the Attorney General has authorized the use of McManimon & Scotland, LLC by the NJMC for the aforementioned purposes.

NOW, THEREFORE, BE IT RESOLVED the New Jersey Meadowlands Commission hereby authorizes the Executive Director to hire the aforementioned firm, at an hourly rate to be approved by the Office of the Attorney General and to appropriate \$75,000 for payment of the services performed by the firm.

BE IT FURTHER RESOLVED that the NJMC budget shall be amended accordingly.

The foregoing Resolution was adopted by Commission vote.

Susan Bass Levin
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of October 13, 2006.

Robert R. Ceberio
Secretary

Resolution No. 06-90

Memorandum

New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Christine A. Sanz Date: October 13, 2006

Subject: Special Counsel to the NJMC - McManimon & Scotland

On May 18, 2004, the firm of McManimon & Scotland was authorized to perform legal work for the New Jersey Meadowlands Commission (NJMC) relevant to the EnCap Golf Redevelopment Agreement. The necessary negotiations and transactions related to the aforementioned agreement are ongoing and require special counsel for the Commission. Because of the specialized knowledge that the McManimon & Scotland firm possesses relative to the EnCap transactions, it has been authorized by the Office of the Attorney General that this firm continue as special counsel.

Consequently, staff requests approval of the firm of McManimon and Scotland, LLC as special counsel to the NJMC for the EnCap Golf Redevelopment Agreement, complex land acquisitions, litigation and transactional work. The firm already has received approval from the Office of the Attorney General to perform the aforementioned work. Staff further recommends that the hourly rate be determined by the Office of the Attorney General in consultation with staff and that \$75,000 be appropriated for payment of the firm.

**RESOLUTION AUTHORIZING THE PAYMENT OF LEGAL BILLS
RELEVANT TO WETLAND AND OPEN SPACE ACQUISITION**

WHEREAS, by way of Resolution No. 03-100, the New Jersey Meadowlands Commission (NJMC) authorized the Executive Director to hire Nowell Amoroso Klein Bierman as Special Counsel to the NJMC for the purposes of open space acquisition; and

WHEREAS, an appropriation was made for the payment of the firm in the amount of \$100,000; and

WHEREAS, since the initial retention of the firm, several new properties were identified for acquisition and preservation, thus necessitating the expanded use of the firm's services; and

WHEREAS, such services have been and are presently being performed; and

WHEREAS, it is projected that the total amount to complete the remaining transactions will exceed the original appropriation by not more than \$25,000.

NOW, THEREFORE, BE IT RESOLVED that the NJMC hereby authorizes the Executive Director to pay firm of Nowell Amoroso Klein Bierman for legal services provided in an amount not to exceed \$25,000

The foregoing was adopted on Commission vote.

Susan Bass Levin
Chairwoman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of October 13, 2006.

Robert R. Ceberio
Secretary

Resolution No. 06-91

Memorandum

New Jersey Meadowlands Commission

To: NJMC Commissioners and Robert R. Ceberio, Executive Director

From: Christine A. Sanz

Date: October 13, 2006

Subject: Nowell Amoroso Klein Bierman – Legal Services

On December 17, 2003, by way of Resolution No. 03-100, the New Jersey Meadowlands Commission (NJMC) authorized the retention of Nowell Amoroso Klein Bierman as Special Counsel for the acquisition of wetlands and open space. At that time, funding for the acquisition program was provided by the National Oceanic and Atmospheric Administration (NOAA). Subsequently, the NJMC received \$10,000,000 in grants from the Port Authority of New York and New Jersey to augment its acquisition program and preservation efforts. Consequently, more properties could be targeted for acquisition and there were more transactions for the firm to perform. As a result of the success of the open space acquisition and preservation program, additional funds must be appropriated for payment of legal services relevant to property acquisition. It is anticipated that the total amount to complete the remaining transactions being performed by the firm will exceed the original appropriation by not more than \$25,000. Staff therefore requests that the Executive Director be authorized to pay the firm Nowell Amoroso Klein Bierman for legal services as performed in an amount not to exceed \$25,000.

RESOLUTION: CLOSED SESSION

WHEREAS, the Open Public Meetings Act, Chapter 231, P.L. 1975, permits the holding of closed session by public bodies in certain circumstances; and

WHEREAS, the New Jersey Meadowlands Commission is of the opinion that those circumstances presently exist.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. That a closed session of the NJMC will be held to discuss the following:
 - Legal
 - Riverview/Tomu
 - NYS&W
 - Pesce
2. It is anticipated at this time that the above subject matter(s) will be made public upon completion of said matter(s).

This Resolution shall become effective immediately. The foregoing Resolution was adopted by Commission vote.

Susan Bass Levin
Chairman

I hereby certify the foregoing to be a true copy of the Resolution adopted by the New Jersey Meadowlands Commission at its meeting of October 13, 2006.

Robert R. Ceberio
Secretary

Resolution No. 06-92